

**EXHIBIT 12**  
**Excerpts from**  
**Travis Crumrine**  
**Deposition, Vol.**  
**II, 12/10/18**

Officer Travis Crumrine ~ December 10, 2018  
\* \* \* Videotaped Deposition \* \* \*

Page 1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 \* \* \* \* \*

4

5 TRINITA FARMER, )  
6 individually, )  
7 Plaintiff, ) Case No.  
8 vs. ) 2:18-cv-00860-GMN-VCF  
9 LAS VEGAS METROPOLITAN )  
10 POLICE DEPARTMENT, a )  
political subdivision of )  
the State of Nevada; )  
11 KENNETH LOPERA, )  
individually; TRAVIS )  
CRUMRINE, individually; )  
12 MICHAEL TRAN, individually; )  
MICHAEL FLORES, )  
13 individually, )  
14 Defendants. )  
15 \_\_\_\_\_

**CONDENSED  
TRANSCRIPT**

16 VIDEOTAPED DEPOSITION OF OFFICER TRAVIS CRUMRINE  
17

18 Taken on Monday, December 10, 2018

19 At 10:09 a.m.

20 Taken at Lagomarsino Law

21 3005 West Horizon Ridge Parkway

22 Suite 241

23 Henderson, Nevada 89052

24

25 Reported by: Sarah Safier, CCR No. 808

**Officer Travis Crumrine ~ December 10, 2018**  
**\* \* \* Videotaped Deposition \* \* \***

7 (Pages 22 to 25)

<p style="text-align: center;">Page 22</p> <p>1 12 were there that night. The other squad sergeant    2 was off, and he had -- I believe he had 16 officers    3 assigned to him, but I want to say that there were    4 five or six off.    5 So roughly 23 from those two squads, and    6 then there may have been some overtime folks, four or    7 five, six maybe. So possibly up to 30.    8 Q All right. Was Officer Lopera under your    9 supervision that night?    10 A Yes.    11 Q And what about Officer Tran?    12 A Yes.    13 Q Was Officer Tran normally on your squad?    14 A No. He was on the other squad. His    15 sergeant was off.    16 Q And was Officer Flores usually on your    17 squad?    18 A No.    19 Q Was that the first time you had supervised    20 those individuals that night?    21 A No.    22 Q How many times did you supervise those    23 individuals?    24 A That would be hard to say. I mean, I think    25 we worked -- our quads worked together two nights a</p>	<p style="text-align: center;">Page 24</p> <p>1 system, it's leaps and bounds better than the -- the    2 one before.    3 Q And so at some point, you were drawn to the    4 Venetian, correct?    5 A Yes.    6 Q And how were you drawn to the Venetian?    7 A So I heard the garbled radio traffic. I was    8 in my car. I was roughly at Sands and Howard Hughes    9 or between Howard Hughes and Koval. The dispatcher    10 can tell when you key your radio what unit's keying    11 their radio. So I don't know if the dispatcher heard    12 him -- heard or to make out what he said or could    13 tell by the radio ID, but she knew it was Venetian    14 1's call sign, so she gave a code red to Venetian 1.    15 Q And what does code red stand for?    16 A A code red means that an emergency exists on    17 the channel and whoever the code red is for, the    18 radio channel is theirs to broadcast traffic.    19 Everyone else stays off the radio so they can get out    20 their emergency traffic.    21 Q As part of your job patrolling the Strip, do    22 you have to sometimes deal with intoxicated    23 individuals?    24 A Yes.    25 Q Do you sometimes have to deal with</p>
<p style="text-align: center;">Page 23</p> <p>1 week, and their sergeant was far more senior to me.    2 So it's quite likely he took more nights off where I    3 would have covered.    4 Q Why did more senior sergeants take more    5 nights off?    6 A They accrue more time as you get more time    7 on the job.    8 Q Okay. Officer, is it -- how do you    9 pronounce her name, Lif?    10 A Lif.    11 Q Was she under your supervision and control    12 as well?    13 A Yes.    14 Q Do you remember getting a call from the    15 Venetian in reference to this incident?    16 A We did not get a call from the Venetian.    17 Q Do you remember getting a call referencing    18 the Venetian pertaining to this incident?    19 A The first anyone ever heard of the call was    20 garbled radio traffic.    21 Q So were there problems with the radios at    22 that time?    23 A Not particularly. There are issues with the    24 radios when you get deep into the hotels that -- with    25 signal penetration. But with this current radio</p>	<p style="text-align: center;">Page 25</p> <p>1 individuals who you believe to be high on narcotics?    2 A Yes.    3 Q Are you a drug recognition expert?    4 A No.    5 Q Have you ever had in your career, before May    6 of 2017, had individuals run from you that are    7 intoxicated?    8 A Yes.    9 Q Does Metro have policies on pedestrian    10 pursuits?    11 A Yes.    12 Q If an individual starts running from you for    13 no reason, do you start chasing that individual?    14 A I believe the policy says when running is    15 the sole justification for the pursuit that we do    16 not --    17 Q Okay.    18 A -- or should not.    19 Q So that evening did you conduct a Safe Strip    20 briefing?    21 A Yes.    22 Q Tell me about what a Safe Strip briefing is    23 like.    24 A Mostly in a Safe Strip briefing, especially    25 with the squad being specifically assigned to do</p>

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8 (Pages 26 to 29)

<p style="text-align: center;">Page 26</p> <p>1      it -- back in the day when we used to bring in two  2      officers from every -- like Noah's Ark, we had to  3      give people more instruction on, this is what you  4      need to do, don't be hiding in the back of the  5      casino, don't take three lunch breaks. But officers  6      that are specifically working this, they know most of  7      the rules, so it's really just assigning people  8      properties, anything from our normal briefing, like  9      be on the look out for so-and-so or, you know,  10     Bellagio is having a problem with homeless guys  11     swimming in the fountain or something, just general  12     information. It's mostly just assigning officers to  13     properties.</p> <p>14     Q     How long does that usually take, that  15     briefing?</p> <p>16     A     10 to 15 minutes.</p> <p>17     Q     And did the lieutenant help you with that  18     briefing that night?</p> <p>19     A     Yes.</p> <p>20     Q     And who is that?</p> <p>21     A     Steve Summers.</p> <p>22     Q     Was there also a sergeant working overtime  23     that night?</p> <p>24     A     Yes.</p> <p>25     Q     And was that Bill Jones?</p>	<p style="text-align: center;">Page 28</p> <p>1      posts and check on them. If they're on a stop, back  2      them up, stuff like that.</p> <p>3      Q     From time to time, would you go to the  4      Venetian?</p> <p>5      A     Yes.</p> <p>6      Q     That evening, Officer Lopera and Officer  7      Lif, I understand, were getting coffee.</p> <p>8      A     Uh-huh.</p> <p>9      Q     Does the Venetian provide free coffee to the  10     officers?</p> <p>11     A     If they went to the EDR, yes.</p> <p>12     Q     Anywhere else in the Venetian where you get  13     free coffee?</p> <p>14     A     Not as a rule. I mean, when you go get  15     coffee at places, it's kind of hit-and-miss.  16     Sometimes people give you free coffee.</p> <p>17     Q     All right. In terms of the squads you were  18     supervising that evening, which properties did your  19     squad have responsibility for that evening?</p> <p>20     A     My recollection was probably better a year  21     ago when we went over it, but -- so all in all  22     between my squad and my sister sergeant's squad,  23     we've got everything from Tropicana, New York New  24     York, I believe MGM, it would be CityCenter, Cosmo,  25     Bellagio, Paris, Bally's, there's a Hawaiian</p>
<p style="text-align: center;">Page 27</p> <p>1     A     I believe so.</p> <p>2     Q     So Mr. Summers would have -- or Lieutenant  3     Summers would have been your supervisor?</p> <p>4     A     Yes.</p> <p>5     Q     Did he arrive at the scene at the Venetian?</p> <p>6     A     Yes.</p> <p>7     Q     When did he arrive?</p> <p>8     A     It was pretty quick, because I know he was  9     on -- we had a fatal wreck in front of the Flamingo.  10     A guy had a heart attack while driving his car and  11     crashed into the sidewalk on the Flamingo side of --  12     or, sorry, on the Flamingo side of Cromwell, and he  13     was on scene on that when this happened. I called  14     him on the phone within a couple of minutes, and I  15     said, "Hey, I'm pretty sure I'm an involved officer,  16     so I need you over here."</p> <p>17     Q     Did he come over?</p> <p>18     A     Yes.</p> <p>19     Q     How long did he stay at the scene?</p> <p>20     A     Hours.</p> <p>21     Q     Okay. Did you receive a specific assignment  22     that evening?</p> <p>23     A     My specific assignment is to supervise all  24     those officers on Safe Strip. So basically I just  25     bounce around from one pair to the next on their foot</p>	<p style="text-align: center;">Page 29</p> <p>1     Marketplace.</p> <p>2     Q     Treasure Island?</p> <p>3     A     Treasure Island, Mirage, Harrah's, Flamingo,  4     all the way up -- you've got Venetian, Palazzo, Wynn,  5     Encore. I think that was about where it ends.</p> <p>6     Q     How many officers are assigned per property?</p> <p>7     A     Two.</p> <p>8     Q     And where are they usually working?</p> <p>9     A     Most of their time is going to be spent out  10     on the sidewalk on the boulevard in front of that  11     property.</p> <p>12     Q     Why is that?</p> <p>13     A     Because that's where we see most of our  14     disturbances, your intoxicated individuals, your  15     homeless folks, prostitutes. If security has someone  16     in custody, then they're going to go ahead and call  17     311 and probably a normal patrol officer is going to  18     respond if it's static. If security has something  19     more dynamic going on and the person is not in  20     custody, then they might call the officers into the  21     hotel to -- to handle it.</p> <p>22     Q     As part of your job, do you tend to see  23     individuals who appear to be intoxicated --</p> <p>24     A     Yes.</p> <p>25     Q     -- on the Strip?</p>

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9 (Pages 30 to 33)

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<p>1        A    Oh, yes.</p> <p>2        Q    And do you typically arrest individuals who</p> <p>3        appear intoxicated on the Strip?</p> <p>4        A    No.</p> <p>5        Q    Why is that?</p> <p>6        A    Because mere intoxication is not a crime for</p> <p>7        us.</p> <p>8        Q    All right. It's my understanding that</p> <p>9        initially, Officer Lif and Officer Lopera were</p> <p>10      assigned to the Hawaiian Marketplace; is that</p> <p>11      correct?</p> <p>12      A    Correct.</p> <p>13      Q    And then at the last minute, you texted them</p> <p>14      and told them to move to the Venetian?</p> <p>15      A    Yes.</p> <p>16      Q    Why did you move them to the Venetian?</p> <p>17      A    Because the other squad that had 16 officers</p> <p>18      on paper, they had five or six off, and I was just</p> <p>19      shuffling people around, no real rhyme or reason for</p> <p>20      it. But I put -- I think I put one of -- so I think</p> <p>21      I had an odd number that night, and I put my odd man</p> <p>22      out with an overtime guy who was at the Marketplace</p> <p>23      and then moved them to the Venetian. Not really any</p> <p>24      specific rhyme or reason.</p> <p>25      Q    Did Officer Lopera typically patrol the</p>	<p>1        competitively in jujitsu?</p> <p>2        A    No.</p> <p>3        Q    Did you learn that subsequent to this</p> <p>4        incident?</p> <p>5        MR. MCNUTT: Objection. Form.</p> <p>6        THE WITNESS: I knew that he did, like,</p> <p>7        jujitsu training. This is the first I've heard that</p> <p>8        he ever competed competitively in jujitsu.</p> <p>9        BY MR. LAGOMARSINO:</p> <p>10      Q    Did you know that he had jujitsu training</p> <p>11      prior to the night of the incident?</p> <p>12      A    No.</p> <p>13      Q    Had you ever socialized with him at any</p> <p>14      point before the night of the incident?</p> <p>15      A    No.</p> <p>16      Q    When somebody calls a code red out, does</p> <p>17      that mean that there's an emergency on that channel?</p> <p>18      A    Yes.</p> <p>19      Q    Does that mean that people should try to</p> <p>20      avoid being on that channel if at all possible?</p> <p>21      A    Yes. Do you want a clarification?</p> <p>22      Q    Sure.</p> <p>23      A    The only reason to break that code red if</p> <p>24      you're not the person who the code red is for is if</p> <p>25      you have direct information about whatever that code</p>
<p style="text-align: center;">Page 31</p> <p>1        Venetian?</p> <p>2        A    No.</p> <p>3        Q    Do you know if he had ever patrolled the</p> <p>4        Venetian before that night?</p> <p>5        A    I don't know.</p> <p>6        Q    If I represent to you that in your previous</p> <p>7        deposition you testified that you were pretty sure</p> <p>8        that he had not patrolled the Venetian before that</p> <p>9        evening, would you rely on that representation?</p> <p>10      A    Yeah. I guess specifically, I'm pretty sure</p> <p>11      that I hadn't assigned him to a Safe Strip spot at</p> <p>12      the Venetian. I'm not sure. He had never gone on a</p> <p>13      call there.</p> <p>14      Q    Okay. Thanks for that clarification.</p> <p>15      Was it your understanding that he would not</p> <p>16      be knowledgeable about the different aspects of the</p> <p>17      Venetian?</p> <p>18      A    Yeah. I mean, he had only been assigned to</p> <p>19      that area command for roughly two months at that</p> <p>20      point.</p> <p>21      Q    Had you ever had any interaction with</p> <p>22      Officer Lopera before you became his sergeant?</p> <p>23      A    Other than calling him to ask him if he</p> <p>24      wanted to come to that squad, no.</p> <p>25      Q    Were you aware that he'd competed</p>	<p>red is for.</p> <p>2        Q    Thank you.</p> <p>3        So you started heading for the Venetian.</p> <p>4        Why?</p> <p>5        A    Well, since the dispatcher called out that</p> <p>6        it was a code red for Venetian 1, I can assume that</p> <p>7        they're on the Venetian property. So we weren't</p> <p>8        getting any response from them when she's calling out</p> <p>9        for them for a better location, so I needed to start</p> <p>10      heading to the property, like every one of the</p> <p>11      officers who would be responding would, to start</p> <p>12      searching for him.</p> <p>13      Q    What are some examples of code red</p> <p>14      emergencies?</p> <p>15      A    Generally, it's officer's in a fight,</p> <p>16      officer's in a foot pursuit, officer's got somebody</p> <p>17      not complying with their orders.</p> <p>18      Q    Is that what you took it to mean?</p> <p>19      A    Yes.</p> <p>20      Q    One of those options?</p> <p>21      A    Yes.</p> <p>22      Q    Did you know where to go in the Venetian</p> <p>23      property?</p> <p>24      A    No.</p> <p>25      Q    So how did you happen upon Officer Lopera?</p>

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**\* \* \* Videotaped Deposition \* \* \***

10 (Pages 34 to 37)

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<p>1       A So when she called out that code red and  2       she's asking for location, I was sitting, I think,  3       with my lights on in the intersection of Sands and  4       Koval. And correct me if I'm wrong, it's about five  5       minutes to 1:00 in the morning on a Saturday night,  6       so Las Vegas Boulevard is generally pretty packed  7       with pedestrian and vehicle traffic. So generally I  8       would assume that they're going to be out on the  9       sidewalk on the boulevard. However, to come out and  10      try to make a left to go south on the boulevard to  11      then make another left to get in front of the  12      Venetian is going to take some time, even rolling  13      code, because you may just get stuck.</p> <p>14      So I made a decision to go through the back,  15      which is usually faster. So as I came up the  16      east/west service drive, that's where I found them.</p> <p>17      Q At some point, you stopped your car,  18      correct?</p> <p>19      A Yes.</p> <p>20      Q Were you by yourself?</p> <p>21      A Yes.</p> <p>22      Q And were you communicating with anybody  23      regarding this incident on your way there?</p> <p>24      A No.</p> <p>25      Q When you stopped your car, approximately how</p>	<p>1       that -- did he soil himself in a fight.</p> <p>2       Q Did you later learn that he fell in some  3       water or soap?</p> <p>4       A Yes.</p> <p>5       Q So you parked the car?</p> <p>6       A Yes.</p> <p>7       Q You get out of the car?</p> <p>8       A (Witness nods head.)</p> <p>9       Q What do you do next?</p> <p>10      A Immediately jumped out, ran up, and as I'm  11      running up, Lopera is putting Farmer into a neck  12      restraint, back lying. And as I ran up, they were on  13      kind of their right-hand sides facing the little  14      Jersey wall, and I grabbed Farmer's left arm.</p> <p>15      Q And why did you grab his left arm?</p> <p>16      A To put a handcuff on him.</p> <p>17      Q And did you get the handcuff on him?</p> <p>18      A Not immediately.</p> <p>19      Q How long did it take you to get the handcuff  20      on him?</p> <p>21      A My best estimate, five or ten seconds, I  22      think.</p> <p>23      Q When you were approaching Officer Lopera and  24      Tashii, could you see what Tashii was doing?</p> <p>25      A No.</p>
Page 35	Page 37
<p>1       far were you from Officer Lopera?</p> <p>2       A Three or four blocks.</p> <p>3       Q Okay. Well, when you got to the Venetian, I  4       guess, and you saw Officer Lopera, you parked your  5       car, correct?</p> <p>6       A Yes.</p> <p>7       Q How far away did you park your car from  8       Officer Lopera?</p> <p>9       A 30 to 50 feet probably.</p> <p>10      Q And did you park in the drive?</p> <p>11      A Right in the middle of the road, yeah.</p> <p>12      Q Okay. Did you have your lights on?</p> <p>13      A Yes.</p> <p>14      Q As you're driving up, did you see Officer  15      Lopera and Tashii on the ground?</p> <p>16      A Yes.</p> <p>17      Q And what did you see?</p> <p>18      A As I drove up, what I could see was Officer  19      Lopera on the ground with his feet, butt, back to me  20      and then Farmer was either below or in front of him,  21      behind. I couldn't really see. I mean, I knew there  22      was a person there, but I couldn't really see him  23      because mostly what I'm seeing is the back of  24      Lopera's body. I remember that his butt and the back  25      of his thighs were wet, and I remember thinking</p>	<p>1       Q And when you drove up, could you see what  2       Officer Lopera was doing?</p> <p>3       A No.</p> <p>4       Q Did you ever see Officer Lopera strike  5       Tashii?</p> <p>6       A No.</p> <p>7       Q Did you learn later that Officer Lopera  8       struck Tashii with his fist?</p> <p>9       A Yes.</p> <p>10      Q And did you ever see Officer Lopera tase  11      Tashii?</p> <p>12      A No.</p> <p>13      Q Did you later learn that he did tase Tashii  14      several times?</p> <p>15      A Yes.</p> <p>16      Q When you came up to the scene and up to  17      Lopera, was his taser holstered?</p> <p>18      A I don't remember.</p> <p>19      Q It wasn't being used at that time, correct?</p> <p>20      A Correct.</p> <p>21      Q Did you notice any evidence of tasering when  22      you approached the scene?</p> <p>23      A No.</p> <p>24      Q And what would be some evidence of tasering?</p> <p>25      A When you deploy a taser, there's like</p>

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11 (Pages 38 to 41)

Page 38	Page 40
<p>1      confetti that comes out of the cartridge and also the  2      wires, the barbs.</p> <p>3      Q    After Tashii was released from the neck  4      restraint, did you notice evidence -- is it tasing or  5      tasering?</p> <p>6      A    Tasing.</p> <p>7      Q    Did you notice evidence of tasing after he  8      released him?</p> <p>9      A    Yes.</p> <p>10     Q    And what did you notice?</p> <p>11     A    I'm not sure if it was before or after he  12     told me that he tased him.</p> <p>13     Q    Did you actually see the evidence of tasing?</p> <p>14     A    I do remember seeing one of the barbs in  15     his -- was it in his back or his front?</p> <p>16     Q    How far away were you approximately when you  17     saw Lopera apply the neck restraint?</p> <p>18     A    Like I said, 30 to 50 feet.</p> <p>19     Q    Was there anybody else nearby?</p> <p>20     A    There were two Venetian security guards.</p> <p>21     Q    What were they doing?</p> <p>22     A    As I ran up, they were near Lopera and  23     Farmer. And as I recall, as I approached, they kind  24     of backed away.</p> <p>25     Q    At that point in time, were there any other</p>	<p>1      A    Correct.</p> <p>2      Q    Now, when you came up on the scene, you said  3      to Tashii, "Put your fucking hands behind your back,"  4      correct?</p> <p>5      A    Correct.</p> <p>6      Q    Is it within policy at Metro to curse at  7      suspects?</p> <p>8      A    It is, of course, discouraged, but  9      oftentimes using strong language with people gains  10     compliance where -- and prevents us from having to  11     use actual physical force.</p> <p>12     Q    Do you feel like that that agitated Officer  13     Lopera?</p> <p>14     MR. ANDERSON: Objection to form.</p> <p>15     THE WITNESS: No.</p> <p>16     BY MR. LAGOMARSINO:</p> <p>17     Q    Once you arrived where Tashii and Officer  18     Lopera were, that's within three seconds or so,  19     that's when you saw Officer Lopera start applying the  20     neck restraint, correct?</p> <p>21     A    Roughly.</p> <p>22     Q    In your prior deposition, you stated -- let  23     me have the Exhibit 1.</p> <p>24     (Plaintiff's Exhibit No. 1 was marked  25     for identification.)</p>
<p style="text-align: center;">Page 39</p> <p>1      police officers present --</p> <p>2      A    No.</p> <p>3      Q    -- besides Lopera? Sorry.</p> <p>4      A    No.</p> <p>5      Q    When you approached Officer Lopera and  6      Tashii, did you believe that Lopera had Tashii in an  7      illegal or out-of-policy choke hold?</p> <p>8      A    No.</p> <p>9      Q    You have been trained on the LVNR, correct?</p> <p>10     A    Correct.</p> <p>11     Q    What does LVNR stand for, for the record?</p> <p>12     A    Lateral vascular neck restraint.</p> <p>13     Q    If you had seen Lopera putting Tashii in an  14     illegal or out-of-policy choke hold, would you have  15     intervened?</p> <p>16     A    Possibly.</p> <p>17     Q    LVNR can be applied with either arm,  18     correct?</p> <p>19     A    Correct.</p> <p>20     Q    Now, when you saw Officer Lopera restraining  21     Tashii, did it look like to you that the front arm  22     looked like it would be in the position it would be  23     in if it was applying an LVNR?</p> <p>24     A    Yes.</p> <p>25     Q    So you assumed he was applying an LVNR?</p>	<p>1      BY MR. LAGOMARSINO:</p> <p>2      Q    You mentioned earlier that your memory --  3      strike that.</p> <p>4      You had your deposition taken about a year  5      ago, correct?</p> <p>6      A    Yes.</p> <p>7      Q    All right. And you mentioned earlier that  8      your memory is probably better a year ago than it is  9      today, correct?</p> <p>10     A    Yes.</p> <p>11     Q    Would having your deposition here from a  12     year ago help to refresh your recollection?</p> <p>13     A    Yes.</p> <p>14     Q    Okay. All right. I'm going to try not to  15     make it an onerous task to keep referring to the depo  16     today, but from time to time I will.</p> <p>17     A    Sure.</p> <p>18     Q    If you could please turn to Page 34 of the  19     deposition.</p> <p>20     A    Okay.</p> <p>21     Q    So at the top of that page, going back to  22     the page before -- so I'm sorry, for the record,  23     Page 33 -- you state that you made the comment about  24     putting his hands behind his back, and then you said  25     that you made several other statements and that the</p>

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**\* \* \* Videotaped Deposition \* \* \***

12 (Pages 42 to 45)

Page 42	Page 44
<p>1      timeline, I think, that you were referring to was  2      wrong. We do have a timeline, so we will get into  3      that a little bit.</p> <p>4      But going to the next page, it says:  5      "What's the next thing you did besides making the  6      statement that we just talked about? What else did  7      you do next?"</p> <p>8      It says: "Chronologically, I'm not totally  9      sure, but I grabbed Farmer's left wrist --</p> <p>10     "Okay.  11     "-- to put it in a -- to handcuff.  12     "Right.  13     "He pulled it away. He broke my grip. I  14     grabbed it again. Got the handcuff on."  15     So the first time you grabbed his hand, he  16     pulled it away, correct?  17     A    Correct.  18     Q    The second time you grabbed it, you were  19     able to get his handcuff on?  20     A    Correct.  21     Q    Okay. And you were trying to get them both  22     to roll over to accomplish the handcuffing?  23     A    Yes.  24     Q    Why?  25     A    Well, handcuffs have to go behind Farmer's</p>	<p>1      hear him say that, I think at least twice, "Is he out  2      yet?"  3      A    Yes.  4      Q    And then a couple of times in the timeline  5      there was references to Tashii gasping. Did you ever  6      hear that?  7      A    No.  8      Q    All right. There was some discussion in  9      your prior deposition and your CIRT statement that  10     you were the one who said, "Let him go, Ken."  11     A    Yes.  12     Q    And were you saying let him go because you  13     were seeing Tashii's constitutional rights get  14     violated, or were you simply saying let him go  15     because you wanted to handcuff him?  16     MR. MCNUTT: Objection. Form.  17     MR. ANDERSON: Objection.  18     THE WITNESS: I was saying let go because I  19     wanted to handcuff him.  20     BY MR. LAGOMARSINO:  21     Q    When was the first time you checked to see  22     if Tashii was conscious?  23     A    When we rolled him back over face up after  24     he was handcuffed.  25     Q    Do you remember Officer Lopera saying</p>
<p style="text-align: center;">Page 43</p> <p>1      back, and Lopera is covering Farmer's back by being  2      behind him. So we have to separate the two. And the  3      way that we train is we don't disengage.  4      I'll give you a pretty long explanation  5      here, but when you do LVNR, we train to do it by  6      yourself. So you would have the person, and when you  7      go to handcuff them, you're going to roll them over  8      onto their stomach. You're going to decide which  9      direction you need to go. You have got your legs  10     around the subject.  11     So if I went to turn to the left, I'm going  12     to keep my left leg around the subject to maintain  13     control and not roll over on your own leg. You're  14     going to kick the other leg out to push both of you  15     over to turn the person onto their stomach, and then  16     bring their hands behind their back. Now you have  17     broken away from them and handcuffed them.  18     Q    Okay. Have you ever been diagnosed as  19     having -- being hard of hearing or being deaf or  20     anything like that?  21     A    No.  22     Q    Do you recall Officer Lopera asking a few  23     times whether Tashii was out?  24     A    I don't.  25     Q    Later when you watched the video, did you</p>	<p>1      something like, "Don't grab my fucking legs"?  2      A    Yes.  3      Q    Do you know why he was saying that?  4      A    I don't know specifically. I can give you  5      my best guess.  6      Q    Well, I don't want you to guess.  7      A    Okay.  8      Q    After watching the video, are you able to  9      make an estimate as to why he said that?  10     A    Yes.  11     Q    Okay. And what's that?  12     A    Because it's hard to roll yourself over with  13     another person and easy to hurt yourself. And you  14     also have -- you're kind of like a turtle when you  15     have your vest on and all your gear on your belt, and  16     so it's not exactly easy to do and needs to be slow  17     and methodical to prevent injury to everybody.  18     Q    Was somebody on his legs at the time, or was  19     he just kind of giving a warning?  20     A    Officers Tran and Flores were down towards  21     the legs at that time.  22     Q    Now, at the time you rolled him over, Tran  23     and Flores had already arrived, correct?  24     A    Yes.  25     Q    And they were assisting with restraining</p>

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13 (Pages 46 to 49)

Page 46	Page 48
<p>1      Tashii?</p> <p>2      A    Correct.</p> <p>3      Q    At some point, were you holding on to</p> <p>4      Tashii's legs?</p> <p>5      A    Not that I recall specifically.</p> <p>6      Q    At some point, did either Officer Tran or</p> <p>7      Flores hold on to or put pressure on Tashii's legs?</p> <p>8      A    I don't remember.</p> <p>9      Q    Lopera was doing what's known as a back</p> <p>10     lying neck restraint, correct?</p> <p>11     A    Correct.</p> <p>12     Q    And his legs were wrapped around Tashii,</p> <p>13     correct?</p> <p>14     A    Correct.</p> <p>15     Q    Where were they wrapped around him?</p> <p>16     A    I mean, it would be, like, between the waist</p> <p>17     and the knees.</p> <p>18     Q    As part of applying the LVNR, is it</p> <p>19     important to position the subject's head properly?</p> <p>20     A    Yes.</p> <p>21     Q    Why is that?</p> <p>22     A    To get the proper compression on the sides</p> <p>23     of the neck.</p> <p>24     Q    Based on your training with the LVNR, is it</p> <p>25     appropriate to place your hand on the subject's head,</p>	<p>1      Q    Okay. And they're putting pressure on the</p> <p>2      legs to keep him stable?</p> <p>3      A    I wouldn't say pressure. They're probably</p> <p>4      holding his legs to turn the both of them over.</p> <p>5      Q    Well, to hold him, they have got to put some</p> <p>6      pressure on him, correct?</p> <p>7      A    Like I said, they're not -- they're probably</p> <p>8      not segmenting his legs where we would, like, pin</p> <p>9      someone's leg down to the ground to prevent their</p> <p>10     movement. They're probably holding the leg to turn</p> <p>11     him over.</p> <p>12     Q    Okay.</p> <p>13     A    Sorry. Body language.</p> <p>14     Q    That's all right. Now, at that point,</p> <p>15     you're focused on his arms, correct?</p> <p>16     A    Correct.</p> <p>17     Q    I believe in your -- if you turn to Page 42,</p> <p>18     Lines -- between Lines 15 to 21, you stated, at this</p> <p>19     point you, quote, weren't really busy -- strike that.</p> <p>20     I'll just read the record.</p> <p>21     So question at Line 15: "Well, can you see</p> <p>22     if he is conscious or not?</p> <p>23     "ANSWER: No. I wasn't -- I wasn't -- how</p> <p>24     do I explain? I wasn't really busying myself with</p> <p>25     whether or not he was conscious. I was trying to get</p>
<p style="text-align: center;">Page 47</p> <p>1      either front, back, sides in an effort to position it</p> <p>2      properly?</p> <p>3      A    Possibly.</p> <p>4      Q    I want to kind of take you to the scene</p> <p>5      before you rolled Tashii over but when Officers Tran</p> <p>6      and Flores are there along with yourself and Lopera.</p> <p>7      Lopera's got him in a rear restraint, correct?</p> <p>8      A    (Witness nods head.)</p> <p>9      Q    Yes?</p> <p>10     A    Correct.</p> <p>11     Q    And where are you?</p> <p>12     A    On the side.</p> <p>13     Q    Where -- and what are you doing?</p> <p>14     A    Holding onto that handcuffed arm.</p> <p>15     Q    Are you trying to grab the other arm too?</p> <p>16     A    I need to roll them over before -- I need to</p> <p>17     separate before we can get the handcuffs on him.</p> <p>18     Q    Thanks for clarifying.</p> <p>19     So then where are Officers Tran and Flores</p> <p>20     when you have got his arm and Lopera has got him from</p> <p>21     the back?</p> <p>22     A    As I recall, they were both down at the</p> <p>23     feet, legs, but I'm not totally sure.</p> <p>24     Q    Feet and legs?</p> <p>25     A    I -- that area.</p>	<p style="text-align: center;">Page 49</p> <p>1      them rolled over so I could get him in the</p> <p>2      handcuffs."</p> <p>3      Is that correct?</p> <p>4      A    Correct.</p> <p>5      Q    Now, at the scene, you are required to</p> <p>6      supervise Lopera, correct?</p> <p>7      A    Correct.</p> <p>8      Q    And you are required to supervise Flores and</p> <p>9      Tran?</p> <p>10     A    Correct.</p> <p>11     Q    When you supervise officers, you're supposed</p> <p>12     to advise them, correct?</p> <p>13     A    Correct.</p> <p>14     Q    And fair to say that Metro teaches that a</p> <p>15     properly applied carotid hold or LVNR restraint</p> <p>16     should make a person unconscious in about 7 to</p> <p>17     14 seconds?</p> <p>18     A    That's what they say.</p> <p>19     Q    So is that -- have you ever applied an LVNR</p> <p>20     before to a subject?</p> <p>21     A    No.</p> <p>22     Q    Had you ever seen anybody in the field apply</p> <p>23     an LVNR?</p> <p>24     A    No.</p> <p>25     Q    With Tashii and Officer Lopera -- strike</p>

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 \* \* \* Videotaped Deposition \* \* \*

14 (Pages 50 to 53)

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<p>1 that.</p> <p>2        Had you ever supervised Lopera before this</p> <p>3        incident in a use-of-force situation?</p> <p>4        A No.</p> <p>5        Q Have you ever been a field training officer?</p> <p>6        A No.</p> <p>7        Q Did you ever have any responsibility for</p> <p>8        training Officer Lopera?</p> <p>9        A No.</p> <p>10      Q So did you expect, as a supervisor, that --</p> <p>11      strike that.</p> <p>12      I'll just take a quick break.</p> <p>13      THE VIDEOGRAPHER: The time is approximately</p> <p>14      11:08 a.m. We are going off the record.</p> <p>15      (Off the record.)</p> <p>16      THE VIDEOGRAPHER: The time is approximately</p> <p>17      11:18 am. We are back on the record.</p> <p>18      BY MR. LAGOMARSINO:</p> <p>19      Q All right. So kind of getting back to the</p> <p>20      scene here, you had mentioned that you had told</p> <p>21      Lopera to let him go, words to that effect, correct?</p> <p>22      A Correct.</p> <p>23      Q Did you ever physically check to see if</p> <p>24      Lopera had relaxed his hold?</p> <p>25      A No.</p>	<p>1 of artificial resuscitation?</p> <p>2        A I'm not totally sure. Short.</p> <p>3        Q Do you know the actual time?</p> <p>4        A No.</p> <p>5        Q And when you say "short," more or less than</p> <p>6        a minute?</p> <p>7        A I'm not sure.</p> <p>8        Q Did you personally ever check to see if</p> <p>9        Tashii had a pulse?</p> <p>10      A No. I had officers there with him checking.</p> <p>11      Q Who was checking?</p> <p>12      A I believe -- well, what happened initially</p> <p>13      was they actually tried to stand him up. I guess it</p> <p>14      wasn't clear to them that he was unconscious. But I</p> <p>15      said, "No, no, no, no, no, sit him down, sit him up,</p> <p>16      pat him on the back."</p> <p>17      So they did that for a short period of time</p> <p>18      and said that they had -- that he was breathing and</p> <p>19      that he had a pulse. And then they updated to me</p> <p>20      that they couldn't find a pulse. And I said, "Take</p> <p>21      him out of handcuffs and start chest compressions."</p> <p>22      Q When you say "they," who are you talking</p> <p>23      about?</p> <p>24      A So we had -- I mean, the officers that I</p> <p>25      know were there were Tran, Flores, Kravetz, Amburgey</p>
<p style="text-align: center;">Page 51</p> <p>1        Q Did you ask Lopera if he had relaxed his</p> <p>2        hold?</p> <p>3        A No.</p> <p>4        MR. LAGOMARSINO: Let's go off the record.</p> <p>5        THE VIDEOGRAPHER: We are going off the</p> <p>6        record. The time is approximately 11:19 a.m.</p> <p>7        (Off the record.)</p> <p>8        THE VIDEOGRAPHER: The time is approximately</p> <p>9        11:20 a.m. We are back on the record.</p> <p>10      BY MR. LAGOMARSINO:</p> <p>11      Q So we're going to go into a little more</p> <p>12      detail on the incident a little later today, but I</p> <p>13      want to talk about what happens after you roll Tashii</p> <p>14      over. Okay?</p> <p>15      A Okay.</p> <p>16      Q So you roll him over. What happens next?</p> <p>17      A I called for medical.</p> <p>18      Q How much time elapsed between the time you</p> <p>19      called for medical and the time you rolled over --</p> <p>20      rolled him over?</p> <p>21      A Seconds. It was before I even stood up off</p> <p>22      the ground.</p> <p>23      Q Okay. How much time elapsed between -- and</p> <p>24      just an estimate -- between the time you rolled him</p> <p>25      over and the time somebody started giving him means</p>	<p>1 and Vontagen.</p> <p>2        Q And it was Amburgey that was the one who was</p> <p>3        applying medical, correct?</p> <p>4        A I believe it was Amburgey and Kravetz.</p> <p>5        Q So nobody was applying medical before they</p> <p>6        got there, correct?</p> <p>7        A They were just monitoring him.</p> <p>8        Q But nobody was applying CPR or compressions</p> <p>9        to him before they got there, right?</p> <p>10      A Before we took him out of handcuffs and</p> <p>11      started it, correct.</p> <p>12      Q Okay. And I may have asked you this. I</p> <p>13      apologize. Did you see if Lopera checked to see if</p> <p>14      Tashii had a pulse?</p> <p>15      A No. Lopera immediately disengaged and</p> <p>16      walked away to check his own equipment, catch his</p> <p>17      breath.</p> <p>18      Q Okay. Would you agree that it's important</p> <p>19      at all times to make sure that Tashii was breathing?</p> <p>20      A Maybe not at all times. They can't do two</p> <p>21      things at once, but --</p> <p>22      Q Okay. All right. Can you please turn to</p> <p>23      Page 48?</p> <p>24      A Sure.</p> <p>25      Q So the question at Line 6, it says: "And</p>

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15 (Pages 54 to 57)

Page 54	Page 56
<p>1       would it be important at all times for you to make  2       sure that Mr. Farmer was breathing?</p> <p>3       "ANSWER: Yes."</p> <p>4       A    Sure. Yes.</p> <p>5       Q    Do you agree with that?</p> <p>6       A    Yes.</p> <p>7       Q    And as a supervisor, were you required to  8       make sure all the officers were performing within  9       Metro policies?</p> <p>10      A    Yes.</p> <p>11      Q    And was it also your responsibility to  12       supervise and make sure that deadly force was not  13       applied to Tashii?</p> <p>14      MR. ANDERSON: Objection. Form.</p> <p>15      THE WITNESS: It would be my job to make  16       sure that excessive force wasn't applied.</p> <p>17      BY MR. LAGOMARSINO:</p> <p>18      Q    All right. In your view, was this excessive  19       force?</p> <p>20      MR. ANDERSON: Objection. Form.</p> <p>21      MR. MCNUTT: Objection. Form.</p> <p>22      BY MR. LAGOMARSINO:</p> <p>23      Q    Let me rephrase. Having reviewed the video  24       and the evidence in the case, do you believe it was  25       excessive force?</p>	<p>1       Q    On how many occasions?</p> <p>2       A    A handful maybe.</p> <p>3       Q    And what's your method of assessing whether  4       somebody was using excessive force?</p> <p>5       A    Based on the -- based on my perception. If  6       it's in the moment, then it's based on my perception  7       of what crime is being committed, what type of  8       resistance the subject is offering.</p> <p>9       Q    And do you know the difference between a  10       subjective assessment and an objective assessment?</p> <p>11      A    Not necessarily. Go ahead and clarify for  12       me, please.</p> <p>13      Q    That's all right. I'll come back to that.</p> <p>14      A    Okay.</p> <p>15      Q    Are you trained to not assume the negative  16       about a subject or suspect?</p> <p>17      MR. ANDERSON: Objection. Form.</p> <p>18      THE WITNESS: I'm not exactly sure what  19       you're asking.</p> <p>20      BY MR. LAGOMARSINO:</p> <p>21      Q    In other words, did you assume that Tashii  22       had committed a crime?</p> <p>23      A    Yes.</p> <p>24      Q    And you didn't ask Ken if he had committed a  25       crime, correct?</p>
<p style="text-align: center;">Page 55</p> <p>1       A    I have concerns about it. I don't know that  2       I would necessarily categorize it as excessive force.</p> <p>3       Q    What concerns do you have?</p> <p>4       A    Well, I haven't been able to interview the  5       officer to get his perception of what he was dealing  6       with at the time, so --</p> <p>7       Q    Is it --</p> <p>8       A    -- there's a lot of unanswered questions.</p> <p>9       Q    Is his subjective view important, or is it  10       more of an objective test?</p> <p>11      MR. ANDERSON: Objection to form.</p> <p>12      THE WITNESS: I'm not sure I understand the  13       question.</p> <p>14      BY MR. LAGOMARSINO:</p> <p>15      Q    Do you ever as a sergeant have an  16       opportunity to assess whether somebody has used  17       excessive force?</p> <p>18      A    I guess are you asking me, in the moment  19       while the force is being used versus after the fact  20       or --</p> <p>21      Q    Well, yeah. Let me -- thanks for asking me  22       to clarify, and I will clarify it.</p> <p>23      As a sergeant, had you ever assessed in any  24       situation whether somebody was using excessive force?</p> <p>25      A    Yes.</p>	<p style="text-align: center;">Page 57</p> <p>1       A    No.</p> <p>2       Q    Not correct or correct?</p> <p>3       A    It's correct that I did not ask him if he  4       committed a crime.</p> <p>5       Q    Those -- those are always my fault when I  6       ask those questions, the double-negatives.</p> <p>7       As a supervisor, would it be your  8       responsibility to make sure that Officer Lopera did  9       not choke Tashii to death?</p> <p>10      MR. ANDERSON: Objection. Form.</p> <p>11      BY MR. LAGOMARSINO:</p> <p>12      Q    I'll rephrase.</p> <p>13      A    Okay.</p> <p>14      Q    At Page 49.</p> <p>15      A    Yeah.</p> <p>16      Q    You were asked: "Would it be your  17       responsibility at that time to make sure that Officer  18       Lopera did not choke Mr. Farmer to death?"</p> <p>19      And your answer was "Yes," correct?</p> <p>20      A    It was.</p> <p>21      Q    After this incident, you were not confirmed  22       from your probationary status as a sergeant; is that  23       correct?</p> <p>24      A    Correct.</p> <p>25      Q    Tell me about what the probationary status</p>

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**\* \* \* Videotaped Deposition \* \* \***

16 (Pages 58 to 61)

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<p>1       is and how that works.</p> <p>2       A    So when you first get promoted to sergeant,</p> <p>3       you have a 12-month probationary period where you're</p> <p>4       supposed to be given constant evaluation and feedback</p> <p>5       as to your performance. And then at the end of the</p> <p>6       12 months, you're confirmed in your position.</p> <p>7       Q    When you're on probationary status, though,</p> <p>8       you're getting a higher rate of pay, correct?</p> <p>9       A    Correct.</p> <p>10      Q    And you have a higher rank?</p> <p>11      A    Correct.</p> <p>12      Q    And you take all the responsibilities of a</p> <p>13      sergeant?</p> <p>14      A    Yes.</p> <p>15      Q    Later in the deposition, there was some</p> <p>16      discussion about which violations were sustained</p> <p>17      against you?</p> <p>18      A    Uh-huh.</p> <p>19      Q    Do you recall those topics?</p> <p>20      A    Yes.</p> <p>21      Q    What were the -- let me build some</p> <p>22      foundation here. You went through a review board,</p> <p>23      correct?</p> <p>24      A    Correct.</p> <p>25      Q    What is a review board?</p>	<p>1       use-of-force board, you have an assistant sheriff is</p> <p>2       the chairman, a deputy chief, two captains, I think,</p> <p>3       and then you have three civilians on the use-of-force</p> <p>4       board.</p> <p>5       Q    And then on the tactical board -- tactical</p> <p>6       review board you said?</p> <p>7       A    Yes.</p> <p>8       Q    Who's on that?</p> <p>9       A    That, the civilians go away, and it's just</p> <p>10      the rest of that board that I named off.</p> <p>11      Q    And just for the record, who was that again</p> <p>12      for the tactical review?</p> <p>13      A    Assistant sheriff, deputy chief, and I think</p> <p>14      two captains. There's also, you have a peer sergeant</p> <p>15      and a peer officer. Well, in this case, you had a</p> <p>16      peer sergeant and a peer officer, because I was</p> <p>17      involved, so there's a peer on the board for each</p> <p>18      rank that's involved.</p> <p>19      Q    And by name, who are the individuals that</p> <p>20      were on your tactical review board?</p> <p>21      A    My recollection, it's Assistant Sheriff Tim</p> <p>22      Kelly, Deputy Chief, is it John McGrath? John</p> <p>23      McGrath, Captain John Pelletier, P-E-L-L-E-E-T-I-E-R</p> <p>24      [sic]. And the peer sergeant was Ryan Evans, and the</p> <p>25      peer officer, I believe, was Travis Ivie, I think.</p>
Page 59	Page 61
<p>1       A    There's a tactical review board and a</p> <p>2       use-of-force review board. They're usually held the</p> <p>3       same day. First, you have the use-of-force review</p> <p>4       board going over the actual force that was used, and</p> <p>5       then you have the tactical review board reviewing the</p> <p>6       tactics that were employed during the incident.</p> <p>7       Q    Did you go through both of those?</p> <p>8       A    Yes.</p> <p>9       Q    And is that automatic, or is that something</p> <p>10      that you have to request?</p> <p>11      A    No. It's something that's automatic on an</p> <p>12      officer-involved shooting, in-custody death, any</p> <p>13      major incident. The officer of internal oversight</p> <p>14      will initiate that investigation.</p> <p>15      Q    And this was an in-custody death, correct?</p> <p>16      A    Correct.</p> <p>17      Q    Why is it an in-custody death?</p> <p>18      A    Because Tashii Farmer died while he was in</p> <p>19      our custody or during our interaction with him.</p> <p>20      Q    Who is on the use-of-force board? Let me</p> <p>21      rephrase that. For you, who was on the use-of-force</p> <p>22      board?</p> <p>23      A    I -- to the best of my recollection, I was</p> <p>24      not a subject of the use-of-force board. I was a</p> <p>25      witness on the use-of-force board. On the</p>	<p>1       Q    And tell me about that process. I just</p> <p>2       don't know much about it, so...</p> <p>3       A    So the Critical Incident Review Team does</p> <p>4       their review of the critical incident, puts together</p> <p>5       a presentation, presents it to the board. The board</p> <p>6       asks questions of the detective presenting the</p> <p>7       presentation, of the officers that were involved in</p> <p>8       the incident, and we also have representatives there</p> <p>9       to also ask questions, clarify, and then they</p> <p>10      convene, deliberate, whatever you want to call it,</p> <p>11      and then they come back and issue their findings.</p> <p>12      Q    So in this case, who was the detective that</p> <p>13      was presenting the case on behalf of CIRT?</p> <p>14      A    It was Kasey Kirkegard, K-I-R-K-E-G-A-R-D, I</p> <p>15      think.</p> <p>16      Q    And was it -- is that a male or female?</p> <p>17      A    Female.</p> <p>18      Q    Was it her position that you failed to</p> <p>19      intercede?</p> <p>20      A    No.</p> <p>21      Q    What was her position?</p> <p>22      A    She informed me upon reviewing the case that</p> <p>23      it was not CIRT's determination that I failed to</p> <p>24      intervene.</p> <p>25      Q    Did you have any questions at your tactical</p>

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17 (Pages 62 to 65)

Page 62	Page 64
<p>1 review board about the subject of intervening?</p> <p>2 A Yes.</p> <p>3 Q And who was in the room with you when those</p> <p>4 questions were asked?</p> <p>5 A All of those people. There's a little bit</p> <p>6 of an audience. There's a person taking down the</p> <p>7 note-- the minutes. My lieutenant was there. And,</p> <p>8 of course, I had two representatives from the PMSA.</p> <p>9 The officers that were involved, they each had a</p> <p>10 representative.</p> <p>11 Q When you say there was somebody taking down</p> <p>12 the minutes, like a court reporter?</p> <p>13 A I believe it's one of our people, like an</p> <p>14 administrative assistant.</p> <p>15 Q And do they have a machine like we see here</p> <p>16 today or --</p> <p>17 A I don't remember.</p> <p>18 Q Is it recorded?</p> <p>19 A Yes.</p> <p>20 Q How is it recorded?</p> <p>21 A I believe it was audio and transcribed.</p> <p>22 MR. LAGOMARSINO: Are we going to -- are you</p> <p>23 going to produce those?</p> <p>24 MR. ANDERSON: I'm not sure it's accurate,</p> <p>25 but I'll look and see what...</p>	<p>1 I'm using the wrong terminology. Were there charges</p> <p>2 that were presented at the review board?</p> <p>3 A It's all pretty convoluted, to be honest</p> <p>4 with you.</p> <p>5 Q Okay.</p> <p>6 A Yes, there are policy violations.</p> <p>7 Q And which policy violations were presented</p> <p>8 to the review board from CIRT pertaining to you?</p> <p>9 A That would be neglect of duty, major</p> <p>10 incident and all-hazard plan and body-worn camera.</p> <p>11 Q And which charges were sustained?</p> <p>12 A Major incident, all-hazard plan and</p> <p>13 body-worn camera.</p> <p>14 Q And were you told why neglect of duty was</p> <p>15 not sustained?</p> <p>16 A No.</p> <p>17 Q Are you informed of -- is it like a majority</p> <p>18 vote from the board, or how does it work? Do you</p> <p>19 know?</p> <p>20 A I have no idea. Ultimately the -- I'll take</p> <p>21 that back. Ultimately the decision rests with the</p> <p>22 chairman of that board, which is the assistant</p> <p>23 sheriff. There is a vote, there is deliberation, but</p> <p>24 that's the way it was explained to me.</p> <p>25 Q And at least with respect to neglect of</p>
Page 63	Page 65
<p>1 MR. LAGOMARSINO: Yeah. We just want all</p> <p>2 the -- I don't have anything from the review board.</p> <p>3 MR. ANDERSON: All right.</p> <p>4 BY MR. LAGOMARSINO:</p> <p>5 Q So who asked you personally about the</p> <p>6 subject of intervening?</p> <p>7 A Gosh, Captain Pelletier definitely did. I'm</p> <p>8 not sure who else.</p> <p>9 Q On the board itself, who are the policy</p> <p>10 makers on that board?</p> <p>11 MR. ANDERSON: Objection. Form.</p> <p>12 THE WITNESS: I mean, can you clarify what</p> <p>13 you mean by a policy maker?</p> <p>14 BY MR. LAGOMARSINO:</p> <p>15 Q Yeah. How are policies arrived at at Metro?</p> <p>16 Do you know?</p> <p>17 A Well, actually, it's -- the entire chain is</p> <p>18 involved in policies. As a sergeant, we would get</p> <p>19 e-mailed lists of potential new policies, and we're</p> <p>20 allowed to give feedback up the chain so they can</p> <p>21 tweak policies and point out what -- if we think</p> <p>22 there's a problem with the policy or whatnot. But</p> <p>23 actual policies get signed all the way up through at</p> <p>24 least the undersheriff, if not the sheriff.</p> <p>25 Q And which alleged charges -- sorry. Maybe</p>	<p>1 duty, would that encompass intervening?</p> <p>2 A Yes.</p> <p>3 Q And basically the review board ratified your</p> <p>4 conduct and said that you did not fail to intervene,</p> <p>5 correct?</p> <p>6 A Correct.</p> <p>7 Q When you said that there's an audience, is</p> <p>8 it open to the public?</p> <p>9 A No.</p> <p>10 Q Do you recall who was there in the audience?</p> <p>11 A No.</p> <p>12 Q When you were in there, where are you? Are</p> <p>13 you in, like, some kind of courtroom or a --</p> <p>14 A No. It's a big -- big conference room at</p> <p>15 Metro and headquarters.</p> <p>16 Q Over at MLK?</p> <p>17 A Yes.</p> <p>18 Q And what records have you seen from the</p> <p>19 review board process?</p> <p>20 A I mean, I saw the PowerPoint.</p> <p>21 Q Provided the PowerPoint?</p> <p>22 A Yes.</p> <p>23 Q Okay. Did you see, was there like a report</p> <p>24 or recommendation or something like that issued</p> <p>25 after?</p>

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18 (Pages 66 to 69)

Page 66	Page 68
<p>1        A I mean, my -- when I was not confirmed, that  2        included -- I don't know what you would call it, the  3        conclusions or the findings.  4        Q Are you eligible to -- well, sorry. What's  5        your current rank?  6        A Police officer.  7        Q Are you eligible to move up to sergeant?  8        A They say I am.  9        Q Does Metro have a policy that if you see a  10       fellow officer engaged in excessive force, that you  11       have a duty to intervene?  12       A Yes.  13       Q And does that apply to all officers across  14       the board or only to supervisors?  15       A All officers across the board.  16       Q When -- is it Detective Kirkegard?  17       A Yes.  18       Q When Detective Kirkegard presented the  19       neglect of duty allegation, did she say that you  20       failed to intervene?  21       A I'm not sure I understand.  22       Q What was the -- sorry. What was the basis  23       of the neglect of duty allegation?  24       A So initially it was listed -- when I was  25       first interviewed by CIRT, it was listed as duty to</p>	<p>1        A Correct.  2        Q And who is that for a sergeant?  3        A PMSA, the Police Managers and Supervisors  4        Association.  5        Q Who was there from the PMSA on your behalf?  6        A It was Sergeant Russ Wood and Lieutenant  7        Kurt, K-U-R-T, McKenzie, M-A-C-K-E-N-Z-I-E (sic).  8        Q I saw in some of the statements that Bryan  9       Yant had participated in some of these statements.  10       Do you know who he is?  11       A Yes.  12       Q What do you know about Bryan Yant?  13       A He is a representative with the PPA.  14       Q Were you aware that he had personally shot  15       three individuals when he was an officer?  16       A Yes.  17       Q Were you ever present when he was -- were  18       you ever present at any officer statements besides  19       your own?  20       A No.  21       Q Okay.  22       A I'm sorry, you mean when they gave their  23       initial statement?  24       Q I apologize. So many people gave several  25       statements, correct?</p>
<p>1        Page 67</p> <p>1        intervene. When it went to the tactical review  2        board, it had been changed to neglect of duty with  3        the recommendation to sustain me for it.  4        Q Okay. So when you say "sustain," they  5        didn't try to make a case that you neglected duty,  6        correct?  7        A They did.  8        Q Oh, they did. Okay. Oh, actually when you  9        say "sustain," a charge. All right.  10       So what was the basis for the neglect of  11       duty charge?  12       A That I failed to intervene.  13       Q And was the allegation that you failed to  14       intervene based on the fact that Lopera was using  15       excessive force?  16       A I don't recall specifically.  17       Q Was the basis of the failure to intervene  18       that Lopera excessively applied the neck restraint?  19       A I don't recall. I think we'd have to look  20       at their report.  21       Q Did you have a -- are you a member of the  22       PPA?  23       A Currently, yes.  24       Q Now, there's a different organization for  25       higher ranks, correct?</p>	<p>1        Page 69</p> <p>1        A When they made a statement at the tactical  2        review board or an initial statement?  3        Q So there's a voluntary statement, right?  4        A Yes.  5        Q And that's pretty short. That's at the  6        scene?  7        A Potentially, yes.  8        Q Then you have the FIT statement, correct?  9        A Correct.  10       Q What does FIT stand for?  11       A Force Investigation Team.  12       Q Then there's a CIRT statement, correct?  13       A Correct.  14       Q So you've given all three of those, correct?  15       A It would just be -- we wouldn't do a  16       voluntary statement. I gave a statement to FIT at  17       the scene, and then roughly 48 hours -- two days  18       later I gave a statement to CIRT.  19       Q Have you given any other statements in this  20       case?  21       A The deposition, grand jury.  22       Q Who represented you at the review board?  23       A That was Russ Wood and Kurt McKenzie.  24       Q There are three different levels of the  25       LVNR, correct?</p>

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19 (Pages 70 to 73)

Page 70	Page 72
<p>1        A    Correct.      2        Q    Can you describe those?      3        A    Level 1 would be when you have just the hold      4        in place and you're not applying any pressure. It's      5        also called zero degrees.      6        Level 2, I believe, is 20 degrees when      7        you're applying medium pressure to the chest and to      8        the sides of the neck.      9        And then 45 is 45 degrees and maximum      10      pressure.      11      Q    If you don't mind, please turn to Page 53.      12      A    Okay.      13      MR. MCNUTT: 5-0?      14      MR. LAGOMARSINO: 53.      15      BY MR. LAGOMARSINO:      16      Q    Question at Line 14, it says: "Had you --      17      can you determine whether an officer is using Level      18      1, Level 2 or Level 3?"      19      And your answer was: "I mean, other than      20      sticking your hand in between their arm and the      21      person's neck or verbally confirming with them what      22      level they're in."      23      Is that the only way to determine whether      24      they're using Level 1, Level 2 or Level 3?      25      A    Yes.</p>	<p>1        Q    When you turned him over, did you put him      2        face down on the pavement?      3        A    So to get the handcuffs on, he has to go      4        face down on the payment, handcuffs go on, he      5        immediately got turned back over face up.      6        Q    Okay. And did all three of you -- strike      7        that.      8        Did all four of you turn him over on his      9        stomach and then roll him back, Flores, Tran,      10      yourself and Lopera?      11      A    Roughly, at least two or more of us.      12      Q    Who is handcuffing Tashii after you rolled      13      him over, principally?      14      A    I had the left handcuff, and I don't      15      remember who put on the right handcuff, and we joined      16      them together.      17      Q    I'll refresh your recollection here at      18      Page 64.      19      It says: "All right. And then the other      20      handcuff, do you know who attached that to the other      21      arm?      22      "ANSWER: No."      23      And then it says: "And then he was -- were      24      both handcuffs attached to both of his arms before he      25      was placed face down?"</p>
<p style="text-align: center;">Page 71</p> <p>1        Q    Is it hard to determine what angle a      2        restraint is being applied at when it's being applied      3        from the back?      4        A    Yes.      5        Q    Why is that?      6        A    If you're doing a standing or maybe a      7        kneeling LVNR, then you see the back arm. And as you      8        apply more pressure, theoretically your back elbow      9        goes up higher. When you're back lying LVNR, your      10      arm is against the ground if you put it back, so      11      you're trained to tuck it under and have your forearm      12      flat against the subject's back.      13      Q    When you first noticed that Tashii was      14      unconscious, was it because his eyes were closed that      15      you believed he was unconscious?      16      Let's take you to Page 61.      17      A    Okay.      18      Q    And when there's a pause, I'm skipping      19      questions, so...      20      A    Okay.      21      Q    So going to Line 17: "Well, was it the fact      22      that his eyes were closed? Is that what caused you      23      to believe that he was unconscious?"      24      And what was your answer?      25      A    "Yes, sir. Initially."</p>	<p style="text-align: center;">Page 73</p> <p>1        And I think the answer was: "I'm not sure      2        if the other one was."      3        Then answer -- or "QUESTION: Okay. So he      4        was placed face down, one arm was pulled over to the      5        back, the other arm was pulled over next to it, and      6        the two handcuffs were cuffed together and attached?"      7        And what was your answer?      8        A    "Correct."      9        Q    And then: "So then you believe that took      10      five to ten seconds?"      11      And what was your answer?      12      A    "I believe so."      13      Q    And then: "QUESTION: Who was principally      14      doing the handcuffing?"      15      What was your answer?      16      A    "Officers Flores and Tran."      17      Q    Then the next question, it says: "So is it      18      fair to say during the time he was being handcuffed,      19      you don't know if he was -- there was any sign of      20      resistance?"      21      Is it correct that you didn't know if he was      22      resisting at that time?      23      A    Correct.      24      Q    Is CIRT internal affairs?      25      A    No.</p>

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**\* \* \* Videotaped Deposition \* \* \***

20 (Pages 74 to 77)

<p style="text-align: center;">Page 74</p> <p>1 Q So maybe you can help me clarify this. So    2 at Line -- at Page 66, Line 2, by Mr. Sayre: "Now,    3 so somebody levied the charge at you initially. Was    4 that internal affairs?"    5 A And your answer was, "Yes."    6 Q Is that correct or incorrect?    7 A It's incorrect.    8 Q Okay. And then you clarified: "It was our    9 Critical Incident Review Team."    10 A Correct?    11 A Correct.    12 Q And the head of that was Kelly McMahill?    13 A Yes.    14 Q And that's a female, correct?    15 A Yes.    16 Q Did Tran and Flores also testify at the    17 tactical board?    18 A Yes.    19 Q Do you know what they were charged with?    20 A Body-worn camera, I believe.    21 Q Okay. So then the next question was: "What    22 other charges were levied against you besides that    23 one?"    24 A "ANSWER: Major incident and all-hazard    25 plan, sometimes more commonly known as ICS or</p>	<p style="text-align: center;">Page 76</p> <p>1 A "No, I didn't observe anything."    2 Q Did you ever see Officer Flores attempt to    3 intervene to remove his hands from the neck of    4 Mr. Farmer?    5 A No.    6 Q You're wearing glasses today, correct?    7 A Yes.    8 Q For the record, were you wearing glasses    9 that day?    10 A Yes.    11 Q So there are different levels of resistance,    12 correct --    13 A Correct.    14 Q -- that you're trained on, correct?    15 What are the different levels that you're    16 trained on?    17 A You have compliance, passive resistance,    18 active resistance, aggressive and aggravated    19 aggressive.    20 Q Based on your review of the video, did you    21 see Mr. Farmer actively resisting?    22 A Passive to active, yes.    23 Q All right. So we can go to Page 72, Line 3:    24 "Okay. Now, you've looked at the video more than one    25 time?"</p>
<p style="text-align: center;">Page 75</p> <p>1 incident command system."    2 Q What does that mean?    3 A It means the care and control of the    4 incident after the fact, setting up a command post,    5 setting up a perimeter, gathering your witnesses,    6 calling all the necessary resources in, specialized    7 units.    8 Q Was that sustained against you?    9 A It was.    10 Q How was that sustained if -- I mean, well,    11 at that point, I guess you didn't know there was a    12 death, correct?    13 A Correct.    14 Q If you knew that there was a death, you    15 would not be responsible for that, correct?    16 A Depends on who you ask.    17 Q It's unclear?    18 A It's unclear.    19 Q All right. So going to Page 68, Line 13:    20 "QUESTION: To your observation, at any time did    21 Officer Tran attempt to intervene to get Officer    22 Lopera to remove his hands from the neck of    23 Mr. Farmer?"    24 After an objection to form, your answer was    25 what?</p>	<p style="text-align: center;">Page 77</p> <p>1 "Yes."    2 Q What were you -- when -- just for our record    3 here, what video are you talking about?    4 A Lopera's body-worn camera and the    5 surveillance video from the Venetian.    6 Q Okay. And "QUESTION: Have you, at any time    7 in looking at the body camera video, seen Mr. Farmer    8 actively resisting?"    9 What was your answer then?    10 A "No."    11 Q Little different question: I think I saw in    12 CIRT they had -- they reference it anywhere from    13 passive to active and back and forth.    14 A Uh-huh.    15 Q Regardless of whether it was active    16 resistance or passive resistance, did you ever see    17 anything in the video that would justify him being    18 tased?    19 A Not --    20 MR. MCNUTT: Objection. Form.    21 THE WITNESS: Not necessarily.    22 BY MR. LAGOMARSINO:    23 Q Did you ever see anything in the video that    24 would justify Tashii being hit on the head 10 to 12    25 times?</p>

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21 (Pages 78 to 81)

Page 78	Page 80
<p>1           MR. MCNUTT: Objection. Form.  2           THE WITNESS: No.  3    BY MR. LAGOMARSINO:  4           Q Did you see anything in the video that would  5           justify a lateral vascular neck restraint?  6           MR. MCNUTT: Same objection.  7           THE WITNESS: No.  8    BY MR. LAGOMARSINO:  9           Q Now, you were talking to the fire department  10          when they arrived, correct?  11          A Yes.  12          Q And you, I believe you used the word "choke"  13          or "choke hold," something along those lines,  14          correct?  15          A I did.  16          Q And did you do that because it wasn't, in  17          your view, an LVNR, or were you just trying to make  18          the translation better for the fire department?  19          A I was trying to translate for the fire  20          department.  21          Q Okay. Do -- are you a UFC fan?  22          A No.  23          Q How many times, to your knowledge, did  24          Lopera cycle his taser?  25          A To my knowledge, I believe it was seven.</p>	<p>1           Q Well, let me rephrase.  2          A Sorry.  3          Q You just said you read from something. What  4          did you read, what document?  5          A The news or the paper that some doctors  6          had -- other doctors had testified.  7          Q Officer Lopera retained, I think, Force  8          Science, have you heard of them?  9          A I've heard of them, yes.  10         Q What have you heard about Force Science?  11         A That they study police use of force.  12         Q Have you ever heard of whether Force Science  13          has ever found that a police officer was not  14          justified?  15         A I have not.  16         Q In any event, you've heard that from other  17          sources, correct?  18         A Yes.  19         MR. LAGOMARSINO: All right. I think it's a  20          good time to go to lunch.  21         THE VIDEOGRAPHER: We are going off the  22          record. The time is approximately 12:02 p.m.  23         (Lunch recess.)  24         THE VIDEOGRAPHER: The time is approximately  25          1:16 p.m. We are back on the record.</p>
Page 79	Page 81
<p>1           Q And did you believe that to be out of  2          policy?  3          A Pol --  4          MR. MCNUTT: Objection. Form.  5          THE WITNESS: Sorry.  6          Policy says that after three cycles the  7          officer should consider another force option.  8    BY MR. LAGOMARSINO:  9          Q Have you reviewed the coroner's report in  10         this case?  11         A No.  12         Q Are you aware of what the coroner determined  13         to be the cause of death?  14         A Vaguely.  15         Q Are you aware that it was determined to be  16         asphyxiation?  17         A Yes.  18         Q Do you have any reason, to your knowledge,  19         to disagree with that?  20         MR. ANDERSON: Objection. Form.  21         THE WITNESS: I know that there were other  22         arguments made about it, just from what I read.  23    BY MR. LAGOMARSINO:  24         Q What did you read?  25         A Just about --</p>	<p>1           (Plaintiff's Exhibit No. 2 was marked  2          for identification.)  3    BY MR. LAGOMARSINO:  4          Q Mr. Crumrine, did you give a statement to  5          the Critical Incident Review Team?  6          A Yes.  7          Q It's also known as CIRT, correct?  8          A Yes.  9          Q What is your understanding of CIRT's  10         function?  11         A CIRT's function is to investigate the  12         tactics and policies as they apply to critical  13         incidents that occurred on the department and make  14         recommendations for policy changes, discipline.  15         Q Have you ever reviewed your statement from  16         CIRT?  17         A Yes.  18         Q Have you ever reviewed anybody else's  19         statement from CIRT?  20         A No.  21         Q Have you reviewed the CIRT report that was  22         issued with recommendations out of this incident?  23         A Yes.  24         Q And when did you do that?  25         A Roughly -- it was two days, I think two</p>

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22 (Pages 82 to 85)

<p style="text-align: center;">Page 82</p> <p>1 days, or the day before the tactical review report.  2 Q When you gave your statement, where were  3 you?  4 A In the CIRT office at headquarters.  5 Q And who was present?  6 A Myself, Detective Pat Hughes, Detective  7 Kasey Kirkegard, Sergeant Kyle Ward, Lieutenant Dan  8 Bledsoe, Russ Wood, Jay Roberts and Kurt McKenzie.  9 Q And did you understand that the conversation  10 was being recorded?  11 A Yes.  12 Q And was there a person there that was also  13 transcribing similar to what you described earlier  14 today?  15 A I believe it was just recorded.  16 Q Did you understand that you had an  17 obligation to be truthful?  18 A Yes.  19 Q And on Page 3 of the statement, there's an  20 instruction from Kasey Kirkegard regarding  21 self-incrimination?  22 A Yes.  23 Q It says: "Self-incrimination. Because you  24 are being compelled to answer questions in an  25 employee -- I'm sorry -- as an employee under the</p>	<p style="text-align: center;">Page 84</p> <p>1 statement?  2 A I believe it was my body-worn camera.  3 Q And then it says: "Were you able to listen  4 to the audio as well?"  5 What audio did you listen to?  6 A Audio from the body-worn camera.  7 Q Your CIRT statement was quite long, correct?  8 A Yes.  9 Q And you have reviewed it before?  10 A Yes.  11 Q If, at any time that we go through this, it  12 doesn't appear to be a true and correct copy of your  13 statement, please let us know. Okay?  14 A Okay.  15 Q All right. Going to Page 8, the question  16 was: "Were you wearing body armor that night?"  17 You were, correct?  18 A Yes.  19 Q Was Officer Lopera wearing body armor?  20 A To the best of my knowledge, yes.  21 Q Okay. And you were wearing a body camera  22 that night, correct?  23 A Correct.  24 Q And so I will kind of ask you the questions.  25 If it's changed, let us know. But where did you</p>
<p style="text-align: center;">Page 83</p> <p>1 threat of termination, your statements, any  2 information or evidence which is gained through such  3 questioning cannot be used against you in any  4 criminal proceeding. Do you understand this right?"  5 And what did you say?  6 A "Yes."  7 Q Did you understand that your CIRT statement,  8 however, could be used in a civil proceeding?  9 A Yes.  10 Q Please go to Page 4. Line 9 says: "All  11 right. Travis, you just stated your name and  12 P-number, but there's quite a few other people in  13 this room for the investigation. I'd like to have  14 everybody identify themselves to help the  15 transcriptionist. My name is Patrick Hughes. My  16 P-number is 9084. And we'll just move to the left."  17 And then a series of people were introducing  18 themselves, correct?  19 A Correct.  20 Q There's a question on Page 5 at Line 4, it  21 says: "Prior to this interview starting, did you --  22 were you able to re-review all the video that we  23 talked about?"  24 And your answer was, "Yes."  25 What video did you review before the CIRT</p>	<p style="text-align: center;">Page 85</p> <p>1 position your body camera at that time?  2 A On my right epaulette on my -- top of my  3 shoulder.  4 Q And: "QUESTION: And is that normally where  5 you pushin' it -- position it?"  6 And the answer was, "Yes."  7 Correct?  8 A Yes.  9 Q And where is the activation button kept?  10 A On my vest underneath my shirt.  11 Q Is it fairly easy to activate your camera?  12 A Yes.  13 Q And is there a wire that runs from the  14 camera?  15 A Yes.  16 Q Can you explain where it runs?  17 A Basically, so the battery pack is here on my  18 vest under my shirt, and the wire runs out between  19 the buttons on my shirt, around my neck to the  20 camera.  21 Q So next question is: "Are you CIT  22 certified?"  23 What does CIT stand for?  24 A Crisis Intervention Team.  25 Q And it says: "Are you instructor</p>

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 \* \* \* Videotaped Deposition \* \* \*

23 (Pages 86 to 89)

Page 86	Page 88
<p>1 development certified?"</p> <p>2       What is instructor development?</p> <p>3       A It means you're certified to teach classes.</p> <p>4       Q Which classes were you certified to teach?</p> <p>5       A None specifically. I had just taken the</p> <p>6       class that makes you certified to teach classes.</p> <p>7       Q To teach classes. Okay. And then you'd</p> <p>8       have to be certified to teach a specific class?</p> <p>9       A Yes.</p> <p>10      Q Okay. Were there any crisis intervention</p> <p>11       team elements that were present in this case?</p> <p>12      A Can you be more specific?</p> <p>13      Q Sure. Was there anything in your mind that</p> <p>14       would implicate crisis intervention in Tashii's case?</p> <p>15      A It could have. It certainly could have had</p> <p>16       the potential to have those elements.</p> <p>17      Q Did it cross your mind when you first</p> <p>18       arrived at the scene that maybe Tashii was in crisis?</p> <p>19      A Yes.</p> <p>20      Q And based on what?</p> <p>21      A Based on that he's in a physical</p> <p>22       confrontation with my officer.</p> <p>23      Q Okay. Next question was: "Are you</p> <p>24       certified in defensive tactics?"</p> <p>25      What was your answer?</p>	<p>1       A Drug recognition expert has gone through</p> <p>2       more extensive training to identify physical signs of</p> <p>3       impairment.</p> <p>4       Q And that evening, you were riding in the</p> <p>5       Crown Victoria?</p> <p>6       A Correct.</p> <p>7       Q Going to Page 12. So I touched on this</p> <p>8       earlier, but just so we can kind of get some context</p> <p>9       here, it says: "How long have you been a supervisor</p> <p>10       for Lopera?" 7 and 8?</p> <p>11       And you said: "About March 11th."</p> <p>12       Correct?</p> <p>13       A Correct.</p> <p>14       Q And the next question was: "Okay. Have you</p> <p>15       ever supervised him outside of the flex squad?"</p> <p>16       What does -- what does that mean?</p> <p>17       A Had he ever been on another squad that I</p> <p>18       supervised, I believe is what he was asking.</p> <p>19       Q All right. And your answer was "No"?</p> <p>20       A Correct.</p> <p>21       Q I believe I asked you this earlier, you had</p> <p>22       never supervised over a use of force where he was the</p> <p>23       subject of a pursuit, correct?</p> <p>24       A Correct.</p> <p>25       Q Okay. And what is a citizen contact report?</p>
<p style="text-align: center;">Page 87</p> <p>1       A "No."</p> <p>2       Q Are you certified today?</p> <p>3       A No.</p> <p>4       Q Were you required to be certified in</p> <p>5       defensive tactics?</p> <p>6       A No.</p> <p>7       Q Is there a separate certification for the</p> <p>8       LVNR, or does that fall under the umbrella of</p> <p>9       defensive tactics?</p> <p>10      A It falls under the umbrella of defensive</p> <p>11       tactics.</p> <p>12      Q So you're not a firearms instructor,</p> <p>13       correct?</p> <p>14      A Correct.</p> <p>15      Q And then it says: "Are you HGN certified?"</p> <p>16       What is that, horizontal gaze nystagmus?</p> <p>17      A Correct.</p> <p>18      Q And what is that?</p> <p>19      A That's the -- to detect impairment by</p> <p>20       watching a subject's pupils, their eyes.</p> <p>21      Q And we asked you this earlier, you're not</p> <p>22       drug and recognition -- strike that.</p> <p>23      You're not DRE certified, correct?</p> <p>24      A Correct.</p> <p>25      Q And what is that?</p>	<p style="text-align: center;">Page 89</p> <p>1       A A citizen contact would be where a citizen</p> <p>2       is complaining about an officer's actions. And it</p> <p>3       doesn't rise to the level of maybe a formal</p> <p>4       complaint, but we still formalize it in a citizen</p> <p>5       contact, which is still under the umbrella of our use</p> <p>6       of force policy, that we just document what the</p> <p>7       citizen's complaints were, what our investigation was</p> <p>8       and what steps we took to prove, disprove, whatever.</p> <p>9       Q Do you know if Officer Lopera ever had a</p> <p>10       citizen contact report?</p> <p>11       A I don't.</p> <p>12       Q But in any event, you didn't supervise him</p> <p>13       on a citizen contact report, correct?</p> <p>14       A No, sir.</p> <p>15       Q And then are citizen contact reports, to</p> <p>16       your knowledge, kept in your employment file?</p> <p>17       A No, I don't believe so.</p> <p>18       Q Okay. And does Metro have a policy of</p> <p>19       removing personnel actions from your employment file</p> <p>20       after a certain amount of time?</p> <p>21       A Yes.</p> <p>22       Q What is that policy?</p> <p>23       A I'm not sure. But there's purge dates after</p> <p>24       a certain amount of time.</p> <p>25       Q The file is purged at some point, correct?</p>

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**\* \* \* Videotaped Deposition \* \* \***

24 (Pages 90 to 93)

Page 90	Page 92
<p>1       A Yes.</p> <p>2       Q Next question at Line 17: "And anything</p> <p>3       that didn't involve a formal investigation could have</p> <p>4       been cleared out just in CAD."</p> <p>5       What is that?</p> <p>6       A CAD is the computer-aided dispatch system.</p> <p>7       Q Okay. Sorry. That was a bad question.</p> <p>8       What would anything that didn't involve a formal</p> <p>9       investigation that could have been cleared out mean?</p> <p>10      A Oh, God. I mean, if you just had someone</p> <p>11      complaining, you know, the officers were</p> <p>12      disrespectful to me or, I mean, probably the most</p> <p>13      common complaint is that they didn't -- the person</p> <p>14      didn't break the law or that the officers don't have</p> <p>15      probable cause to arrest the person.</p> <p>16      Q Had you ever witnessed Officer Lopera arrest</p> <p>17      anybody before this incident?</p> <p>18      A I'm sure I did.</p> <p>19      Q Do you have a specific recollection of it?</p> <p>20      A No.</p> <p>21      Q Other than giving him the midnight briefing</p> <p>22      or the roll call, do you have a specific recollection</p> <p>23      as you sit here today of observing Officer Lopera or</p> <p>24      supervising him?</p> <p>25      A Yes.</p>	<p>1       A The flex teams are not exactly a specialized</p> <p>2       unit, but at the station level, it's kind of</p> <p>3       considered a -- I don't know if I want to say special</p> <p>4       squad, but it's not doing the normal patrol function.</p> <p>5       And it's at the captain's discretion that -- what the</p> <p>6       flex teams to be. Sometime -- some places flex</p> <p>7       squads are in tan uniforms, some places they wear</p> <p>8       green, some places they are in plain clothes.</p> <p>9       Q Are you able to estimate what percentage of</p> <p>10      Metro officers that the public deals with wear tan</p> <p>11      uniforms?</p> <p>12      A It's hard to say.</p> <p>13      Q Would you say, like, the overwhelming</p> <p>14      majority of officers wear tan uniforms?</p> <p>15      A Tan uniforms or maybe plain clothes even.</p> <p>16      Q How unique is that BDU uniform?</p> <p>17      A For -- at Convention Center specifically,</p> <p>18      you have got roughly probably at the moment, even</p> <p>19      presently, about 28 officers that are on flex squads.</p> <p>20      So out of something like 235 officers assigned to</p> <p>21      Convention Center, just over 10 percent of them are</p> <p>22      in green uniforms.</p> <p>23      Q They look like army uniforms?</p> <p>24      A I mean, they're not camouflage. They're</p> <p>25      just plain green BDUs. Honestly, we should probably</p>
<p style="text-align: center;">Page 91</p> <p>1       Q And what is your specific recollection?</p> <p>2       A Just in the times that you first asked the</p> <p>3       question the first time sort of, he made a stop over</p> <p>4       by Top Golf, if you know where that is on Koval and</p> <p>5       Trop, of a guy who was carrying a firearm, concealed.</p> <p>6       He made a stop on Flamingo and Paradise with</p> <p>7       a subject who was carrying a firearm illegally; I</p> <p>8       believe it was stolen. So yes.</p> <p>9       Q Okay. So you have those two recollections,</p> <p>10      is what you remember?</p> <p>11      A At least, yes.</p> <p>12      Q As you sit here today, can you remember any</p> <p>13      others?</p> <p>14      A Not off --</p> <p>15      Q Okay. There was some discussion at -- on</p> <p>16      Line 14 -- or excuse me, Page 14, about the uniforms</p> <p>17      you guys were wearing.</p> <p>18      A Yes.</p> <p>19      Q What was Officer Lopera wearing that</p> <p>20      evening?</p> <p>21      A He was wearing our green BDU type uniform.</p> <p>22      Q What is that?</p> <p>23      A It's one of the uniforms that specialized</p> <p>24      units on the department sometimes wear.</p> <p>25      Q Was he in a specialized unit?</p>	<p style="text-align: center;">Page 93</p> <p>1       switch to them for everybody because they're much</p> <p>2       less expensive than the tan ones.</p> <p>3       Q Do you recall having pictures taken of you</p> <p>4       that evening?</p> <p>5       A I don't.</p> <p>6       Q Do you know if Officer Lopera had pictures</p> <p>7       taken of him in what he was wearing?</p> <p>8       A Yes.</p> <p>9       MR. LAGOMARSINO: And, again, I'm not sure</p> <p>10      if we have it or not, but I'd just request that we</p> <p>11      get those.</p> <p>12      MR. ANDERSON: Yeah. Okay.</p> <p>13      BY MR. LAGOMARSINO:</p> <p>14      Q Okay. Going to Page 16, actually starting</p> <p>15      at 15, going on to 16, there were some questions</p> <p>16      about do you know -- I guess you said you were</p> <p>17      already headed to the Venetian for something?</p> <p>18      A Yeah.</p> <p>19      Q Now, to this day, can you remember --</p> <p>20      A I still don't. I still think about it from</p> <p>21      time to time. I still don't remember what it was I</p> <p>22      was going there for.</p> <p>23      Q Was that a place where you would get coffee</p> <p>24      regularly?</p> <p>25      A Yeah. Maybe once a week or so.</p>

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**\* \* \* Videotaped Deposition \* \* \***

25 (Pages 94 to 97)

Page 94	Page 96
<p>1       Q    Okay. And then you would talk to security  2    managers there?</p> <p>3       A    Yes.</p> <p>4       Q    And what would you talk to those security  5    managers about?</p> <p>6       A    Just any issues that they were having. I  7    basically -- understand that I spent of my 13-odd  8    years on the department, I spent 12-odd of them on  9    graveyard on the Strip in one capacity or another.  10     So when I was in vice, I was dealing with security on  11    the Strip. It's kind of what I'm most comfortable  12    with. So some of these people I've known for a long  13    time.</p> <p>14      I remember Venetian did have a brand new  15    security supervisor on graveyard. That might have  16    been why I was going to meet that person.</p> <p>17      Q    I think this is going to be a slightly  18    different question than what I asked you: When you  19    heard the radio traffic about the call at the  20    Venetian, did you understand any of it?</p> <p>21      A    No.</p> <p>22      Q    And you were not sure who was broadcasting  23    the traffic, correct?</p> <p>24      A    Correct.</p> <p>25      Q    To you, did it sound like a fight or a foot</p>	<p>1       Officer Lopera?"  2       And then it appears that your answer was:  3       "Okay. Um, I would say he's in active for the most  4    part. He is definitely not trying to get away. He  5    is providing resistance to Officer Lopera."  6       So at any time, did you see Tashii trying to  7    get away?</p> <p>8       A    No.</p> <p>9       Q    What is the difference between active  10    resistance and aggressive resistance?</p> <p>11      A    Actions taken to -- with the intent of  12    harming the officer.</p> <p>13      Q    Did you ever see any actions taken by Tashii  14    that indicated to you he was trying to harm the  15    officer?</p> <p>16      A    No.</p> <p>17      Q    Are citizens allowed to resist an officer  18    who is using excessive force on them?</p> <p>19      MR. ANDERSON: Objection. Form.</p> <p>20      THE WITNESS: Yes, I think if that's  21    evident, yeah.</p> <p>22      BY MR. LAGOMARSINO:</p> <p>23      Q    All right. Next Line 21, or excuse me,  24    Page 21, 2-1, Line 9, so it looks like they're  25    reciting something that you may have said in your FIT</p>
<p style="text-align: center;">pursuit?</p> <p>2       A    Yeah. Yes.</p> <p>3       Q    On the way to the Venetian, do you have a  4    recollection of using your mobile data terminal or  5    MDT? Did I say that right?</p> <p>6       A    Yeah.</p> <p>7       No.</p> <p>8       Q    All right. Are you able to run or do you  9    know if Metro is able to see if you did use your MDT?</p> <p>10      A    Possibly.</p> <p>11      Q    Prior to arriving, did you know where  12    Officer Lopera was?</p> <p>13      A    No.</p> <p>14      Q    At any time, did you ever see Tashii punch  15    or strike Officer Lopera?</p> <p>16      A    At any time when I was on scene?</p> <p>17      Q    Right.</p> <p>18      A    No.</p> <p>19      Q    Going to Page 20, please.</p> <p>20      MR. MCNUTT: 2-0?</p> <p>21      MR. LAGOMARSINO: Yeah, 20.</p> <p>22      BY MR. LAGOMARSINO:</p> <p>23      Q    So the question at Line 20, "They're both on  24    the ground. I was asking you what level of  25    resistance do you think the officer was showing to</p>	<p>1       statement. It says: "I saw them on the ground. And  2    as I got out of the car, I already knew he had him in  3    an LVNR."</p> <p>4       And then the question, just for  5    clarification: "Did you see Officer Lopera apply the  6    LVNR, or was the LVNR already applied?"</p> <p>7       And your answer was: "I saw him apply the  8    LVNR."</p> <p>9       Correct?</p> <p>10      A    Correct.</p> <p>11      Q    So as you're approaching him, he is going  12    into the LVNR, correct?</p> <p>13      A    Correct.</p> <p>14      Q    And what training had you received regarding  15    the LVNR?</p> <p>16      A    Training in the academy, and then it's a  17    part of quarterly defensive tactics training at least  18    once a year, sometimes more often.</p> <p>19      Q    Had you ever watched a video on LVNRs?</p> <p>20      A    Maybe.</p> <p>21      Q    Okay. I think we -- if we have one later,  22    maybe it will refresh your recollection, or maybe  23    not, but --</p> <p>24      A    Oh, I have watched that video, yes. Not in  25    my training had I watched the video.</p>

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 \* \* \* Videotaped Deposition \* \* \*

26 (Pages 98 to 101)

Page 98	Page 100
<p>1       Q   Okay. Do you know, was that video created    2       before this incident or after?</p> <p>3       A   To the best of my knowledge, it was created    4       after.</p> <p>5       Q   The -- was it -- had you ever received any    6       other LVNR training before joining Metro?</p> <p>7       A   No.</p> <p>8       Q   So was it based on your training with Metro    9       that you believed that Officer Lopera had Tashii in    10      an LVNR?</p> <p>11      A   Yes.</p> <p>12      Q   At all times did you believe at the scene    13      that -- well, strike that.</p> <p>14      24, please. Was it your understanding that    15      Lopera was trying to apply a back lying LVNR?</p> <p>16      A   Yes.</p> <p>17      Q   All right. 25, please. So you used the    18      phrase in your CIRT statement that Lopera was    19      fighting. Were you using it in the sense of, like,    20      he was boxing, or was it like he just wasn't -- or    21      that he was just resisting?</p> <p>22      MR. MCNUTT: Objection. Form.</p> <p>23      MR. LAGOMARSINO: Yeah. That is a terrible    24      question. I'll rephrase.</p> <p>25      ///</p>	<p>1       Q   Okay. Then you were asked: "Did you ever    2       observe Officer Lopera remove either hand or arm away    3       from the suspect while he applied the LVNR?"    4       What was your answer?</p> <p>5       A   Where are we at?</p> <p>6       Q   Oh, I apologize.</p> <p>7       A   I think it was "No."</p> <p>8       Q   So it's 26 at the bottom and then going to    9       27.</p> <p>10      A   Yeah. "No."</p> <p>11      Q   Okay. Same answer today?</p> <p>12      A   Correct.</p> <p>13      Q   Did you personally ever advise Tashii to    14      stop resisting?</p> <p>15      A   Other than, "Put your fucking hands behind    16      your back," that's all I ever said to him.</p> <p>17      Q   Going to Page 29, please. So Line 1, it    18      says: "On Page 4 of your FIT statement, you stated    19      you were able to place a cuff on the subject's left    20      arm. Why weren't you able to place the subject's --    21      a cuff on the subject's right arm?"    22      And you said: "I couldn't get to it."</p> <p>23      Why couldn't you get to it?</p> <p>24      A   Like I explained before, when they're -- we    25      had to bring the cuffs behind Farmer's back and</p>
Page 99	Page 101
<p>1       BY MR. LAGOMARSINO:</p> <p>2       Q   You already testified that he wasn't trying    3       to harm Officer Lopera, correct?</p> <p>4       A   Correct.</p> <p>5       Q   And are you using the word "fighting" to    6       mean resisting?</p> <p>7       A   Yes.</p> <p>8       Q   All right. Going to Page 26. There's been    9       some reference to Tashii being on top of Officer    10      Lopera, and so you were asked in the CIRT statement    11      about whether that could be potentially misconstrued    12      to imply that Tashii was in a dominant position. Did    13      you ever see Tashii in a dominant position?</p> <p>14      A   No.</p> <p>15      Q   And when Officer Lopera had him in the LVNR,    16      did Officer Lopera have a certain amount of control    17      over Tashii?</p> <p>18      A   Do you want me to put a percentage to the    19      amount of control I think he had or --</p> <p>20      Q   Well, you said he had a certain level of    21      control, correct?</p> <p>22      A   Right.</p> <p>23      Q   And he had that level of control over    24      Tashii, correct?</p> <p>25      A   Yes.</p>	<p>1       Lopera's chest is against Farmer's back, they need to    2       separate.</p> <p>3       Q   Okay. So it was based on Officer Lopera's    4       position on Tashii that you couldn't get to his right    5       arm, correct?</p> <p>6       A   I could get to his right arm. I just    7       couldn't bring the two together to handcuff.</p> <p>8       Q   Based on Officer Lopera's position, correct?</p> <p>9       A   Sure.</p> <p>10      Q   After Tashii was placed in handcuffs, was he    11      resisting?</p> <p>12      A   No.</p> <p>13      Q   At some point after you turned Tashii over,    14      you went to your car, correct?</p> <p>15      A   Yes.</p> <p>16      Q   You didn't know anything about Tashii before    17      you went to go to your car to check him out, correct?</p> <p>18      A   Correct.</p> <p>19      Q   How long did it take you to run him at the    20      car?</p> <p>21      A   I don't know, a minute or so.</p> <p>22      Q   Okay. How long did it take you to get to    23      the car?</p> <p>24      A   Not very long. The car was pretty close.</p> <p>25      Q   Another 30 seconds or a minute?</p>

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 \* \* \* Videotaped Deposition \* \* \*

27 (Pages 102 to 105)

Page 102	Page 104
<p>1        A    Maybe.    2        Q    After you had turned him over, did you run    3        to the car, did you jog, did you walk fast?    4        A    Oh, it was probably several minutes before I    5        went to the car. I was calling for medical. I mean,    6        all the other -- I think a bunch of that stuff    7        happened before I ever went to the car.    8        Q    Okay. When you ran him, you received some    9        information that he had a prior DUI, correct?    10      A    Correct.    11      Q    Was that relevant to what had happened    12      before you ran him?    13      A    No.    14      Q    Have you since learned that Tashii had a    15      record in Hawaii?    16      A    Yes.    17      Q    Was that relevant to you before you learned    18      that?    19      A    No.    20      Q    Strike that.    21      Was that relevant to you before the incident    22      or during the incident?    23      A    I don't think I understand the question.    24      Q    That's like a dumb lawyer question.    25      You didn't know about it, right?</p>	<p>1        BY MR. LAGOMARSINO:    2        Q    At the time that you told Lopera to release    3        Tashii, did you feel that Lopera had control of    4        Tashii?    5        A    No.    6        Q    Okay. All right. Let's turn to 44.    7        A    Sure.    8        Q    At Line 3, you said: "All right. So at the    9        time -- so at the time you told him to release the    10      LVNR, it was still just you and the subject officer?"    11      And what was your answer?    12      A    "Correct."    13      Q    "And the purpose of releasing the LVNR was    14      to facilitate handcuffing?"    15      And what was your answer?    16      A    "Correct."    17      Q    "And you felt that you and the subject    18      officer had control of the subject?"    19      A    "Correct."    20      Q    All right. Please turn to 46. We talked    21      earlier about that you used the word "choked" with    22      the fire department, at the bottom of 46 and 47 where    23      you were talking about that with CIRT.    24      A    Yes.    25      Q    Is a choke hold slang for an LVNR at Metro?</p>
<p style="text-align: center;">Page 103</p> <p>1        A    Correct.    2        Q    So it couldn't be relevant to you?    3        A    Correct.    4        Q    Did you ever ask Lopera what crime Tashii    5        had committed?    6        A    I may have asked him what happened, but not    7        specifically what crime was committed, no.    8        Q    But you asked him what happened after the    9        fact, correct?    10      A    Correct.    11      Q    When you arrived, did you see any injuries    12      on Officer Lopera?    13      A    No.    14      Q    When Officers Tran and Flores arrived, did    15      they conduct themselves in accordance with their    16      training?    17      A    Yes.    18      Q    At the time that you first told Tashii (sic)    19      to release the LVNR, did you believe that Lopera had    20      control of Tashii?    21      MR. ANDERSON: Objection. Form. I think    22      you have the wrong names there.    23      MR. LAGOMARSINO: Oh, I'm sorry. I'll    24      rephrase it.    25      ///</p>	<p style="text-align: center;">Page 105</p> <p>1        A    Yes.    2        Q    Okay. Did you ever submit a use-of-force    3        report regarding the use of the LVNR?    4        A    No.    5        Q    All right. Going to Page 84, please. So    6        there's a series of questions on here about whether    7        you could have interceded or whether you should have    8        interceded. So I will ask the first question: As we    9        sit here today, do you feel at any time that Officer    10      Lopera was applying the LVNR that you could have    11      interceded to stop the application of the LVNR?    12      A    Yes.    13      Q    And then when -- the next question kind of    14      at Line 17, it says: "So now we have got Tran and    15      Flores there. Do you think if you, as a supervisor,    16      can step back and assess it, could you have    17      interceded?"    18      And what was your answer?    19      A    "I could have."    20      Q    What's a debrief of an incident?    21      A    A debrief, the way it's being used here, is    22      just an informal discussion between the people    23      involved in the incident about the tactics that were    24      employed during the incident. And basically we go    25      over everything from the very beginning of the call,</p>

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28 (Pages 106 to 109)

Page 106	Page 108
<p>1 who was the first to respond, who was the first to    2 arrive, what tactics did we employ, how well did we    3 communicate, what levels of force were we in, what    4 was the crime, what -- all that kind of stuff.</p> <p>5 Q And no debrief was conducted here, correct?</p> <p>6 A No.</p> <p>7 Q And is that because he passed away?</p> <p>8 A That is because I was noticed by CIRT that I    9 was not allowed to speak about the incident while I    10 was under investigation.</p> <p>11 Q Did you, yourself, provide any medical    12 treatment to Tashii?</p> <p>13 A No.</p> <p>14 Q So you were asked the question --</p> <p>15 MR. MCNUTT: 90?</p> <p>16 MR. LAGOMARSINO: I'm sorry, 95. I'm sorry,    17 96.</p> <p>18 BY MR. LAGOMARSINO:</p> <p>19 Q You stated: "Well, I'm -- my -- the Officer    20 Lopera could have more appropriately chosen his force    21 options."</p> <p>22 As you sit here today, do you believe that    23 he could have appropriately chosen his force options    24 better?</p> <p>25 A Yes.</p>	<p>1 A It depends on the person. I've seen people,    2 watched people get tased with one cycle or less, and    3 as soon as that cycle ended, they immediately    4 complied and put their hands behind their back. I've    5 always observed that people are able to talk while    6 being tased, because I remember -- now this is going    7 back 11 years probably, but I was present while an    8 officer tased a guy. And the officer is saying, "Put    9 your hands behind your back," and the kid is saying,    10 "I can't right now," while he's being tased. But as    11 soon as that cycle ended, the gentleman put his hands    12 right behind his back.</p> <p>13 Q Complied. Okay.</p> <p>14 So then Page 97, you were asked: "Based on    15 the training that you have received during your time    16 on the department, do you think you were adequately    17 prepared to handle this incident?"</p> <p>18 And what was your answer?</p> <p>19 A I said: "No, not entirely. Um, I'm not    20 sure how I could be. I'm not -- I -- I can't give    21 you a recommendation on how to better train other    22 than to experience it."</p> <p>23 Q Okay. Next question at Page 98, JR says:    24 "Okay" -- excuse me, at Line 10: "Okay. So critical    25 training is a perishable skill?"</p>
Page 107	Page 109
<p>1 Q How could he have done it better?</p> <p>2 A I mean, I can't give you any -- any    3 different way to do it that would guarantee a    4 different outcome, by any means.</p> <p>5 Q There's no guarantees, right?</p> <p>6 A Right. And I can -- I could sit here for    7 hours and play devil's advocate about all of it. If    8 you were talking about the taser, you know, policy,    9 it says you should consider another force option    10 after three cycles. But there's a lot that depends    11 on that.</p> <p>12 Lopera was alone. You know, I mean, officer    13 presence is a force option. Had his partner not lost    14 track of him, I believe less force would have been    15 used. So many, I'm not sure where to start with you.    16 There's a lot of variables here.</p> <p>17 Q Well, I'll go through them with you. Let me    18 ask about the taser. What does neuromuscular    19 incapacitation mean?</p> <p>20 A Commonly referred to as "lock up," when the    21 person is basically -- the person goes stiff and    22 doesn't have control over their movement.</p> <p>23 Q Is a person's ability to respond to commands    24 in a physical way impaired by being tased repeatedly,    25 based on your training?</p>	<p>1 What does that mean to you?</p> <p>2 A Basically -- well, what they were asking me    3 earlier was, is there any type of a scenario that we    4 could put new sergeants, continuing sergeants or    5 supervisors through that would better train you on    6 how to handle this. And we -- we do great training    7 at Metro, but what I was conveying is that you just    8 can't train for the actual real thing. Again, too    9 many variables. It's just not the same as -- as    10 close as you can get in training. Not that the    11 training is bad.</p> <p>12 And what he is saying as far as it's a    13 perishable skill is that the more often you go out    14 and do the job of being a supervisor or being an    15 officer or whatever, the better you're going to be at    16 it. If we take a sergeant who's been a detective    17 sergeant for ten years, an inside cat, if you will,    18 and put him out on the street, it's going to take him    19 some time to get back up to speed.</p> <p>20 Q You had mentioned here, the only type -- the    21 only kind of training you could do to them would be    22 RBT. What does RBT stand for?</p> <p>23 A Reality-based training.</p> <p>24 Q What is that? Is that what you just    25 described?</p>

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29 (Pages 110 to 113)

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<p>1        A Pretty much. We try to have role players  2        and set up a critical incident.  3        Q And was there any training for this scenario  4        in the reality-based training context?  5        A No.  6        Q Based on your review of the document today,  7        does that appear to be a true and correct copy of  8        your CIRT statement?  9        A Yes.  10       (Plaintiff's Exhibit No. 3 was marked  11       for identification.)  12       BY MR. LAGOMARSINO:  13       Q What is Exhibit 3?  14       A This is my statement to FIT.  15       Q How many pages is it?  16       A They're not numbered. Hang on. Oh, there  17       at the top, sorry. Seven.  18       Q Does this appear to be a true and correct  19       copy of your FIT statement?  20       A Yes.  21       (Plaintiff's Exhibit No. 4 was marked  22       for identification.)  23       BY MR. LAGOMARSINO:  24       Q I'm handing you what's been marked as  25       Exhibit 4. What does Exhibit 4 appear to be to you?</p>	<p>1        MR. LAGOMARSINO: No, that's fine.  2        BY MR. LAGOMARSINO:  3        Q Going to Page 10 of the report, which is  4        LVMPD 2067 at the bottom, it mentions it at 5:03, but  5        did Officer Lopera state to you that, quote, I choked  6        him out, referring to Tashii Farmer?  7        A Yes.  8        Q And then there's an entry at 6:38 where it  9        says: "Officer Lopera told Officer Flores and  10       Rybacki what happened. And during the conversation,  11       he stated, I started whaling on the dude, and then I  12       rear-mounted and choked him out."  13       Were you present for that conversation?  14       A No.  15       Q Do you know where you were at the time?  16       A No.  17       Q A rear-mounting can be accomplished by -- in  18       an LVNR, correct?  19       A I don't know.  20       Q On Page 11, Lopera says: "Sarge, is he  21       okay? He's breathing? Officer Lopera then gives the  22       thumbs-up sign and says 'Thank you.'"  23       Did you tell Officer Lopera that he was  24       breathing?  25       A Yes.</p>
<p>1        A Force investigation team report.  2        Q Have you reviewed this report before?  3        A Maybe. There's so many reports.  4        Q So I would like you to take a look at -- you  5        can take a couple of minutes or take a break if you  6        need to, but -- well, let me -- have you ever watched  7        Officer Lopera's body camera footage?  8        A I have watched -- the longest version of the  9        body camera footage that I have seen was the one that  10       was presented at the police fatality public  11       fact-finding review. I watched that after it got  12       posted up on the internet. That's the longest  13       version I've ever seen.  14       MR. MCNUTT: Andre, can I just ask him?  15       MR. LAGOMARSINO: Yeah.  16       MR. MCNUTT: Where did that video start? Do  17       you recall? On that -- the version that you saw,  18       what was the first portion that you saw?  19       THE WITNESS: Inside the Venetian, I  20       believe.  21       MR. MCNUTT: Okay. It started -- okay.  22       Before the foot pursuit?  23       THE WITNESS: Correct.  24       MR. MCNUTT: Okay. I didn't know which  25       version that was.</p>	<p>1        Q Then it says: "Officer Lopera asked if he  2        should expedite medical."  3        Do you recall him asking that?  4        A I don't.  5        Q Was medical expedited?  6        A Medical had been expedited long before that.  7        Q At 11:25 it says: "Officer Rybacki  8        approached Officers Flores and Tran. One of the  9        officers said he was out when we got here. Officer  10       Rybacki responded, 'He was definitely on something.'"  11       Do you know which officer, Flores or Tran,  12       said that he was out when you guys got -- when they  13       got there?  14       A I don't know.  15       Q Then there's a reference at 4:09 with  16       Officer Stutzman. It says: "Officer Stutzman began  17       talking to Officer Flores. Officer Flores stated,  18       quote, By the time we got here, Sarge, and what's  19       that guy? Lopera were wrestling around with that  20       guy. Had him in a lock. I grabbed the guy's feet,  21       but he was already out."  22       Were you present for that conversation?  23       A No.  24       Q Please turn to Page 16. This is LVMPD 2073.  25       "Numerous yellow/pink AFID tags bearing serial number</p>

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30 (Pages 114 to 117)

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<p>1      TSC C31040 were located on the roadway."</p> <p>2      What is that?</p> <p>3      A    So those are the confetti that I was talking</p> <p>4      about that comes out of the taser cartridge. And the</p> <p>5      area that they're talking about -- I'm probably</p> <p>6      jumping ahead, but I think what you're asking is the</p> <p>7      area where that confetti is and the location where</p> <p>8      Farmer was placed in handcuffs, however many lanes</p> <p>9      wide that road is between the Jersey barrier and the</p> <p>10     curb, that's the distance between.</p> <p>11     Q    Could you please turn to Page 2089. So it's</p> <p>12     not the best copy here, but what is that graphic?</p> <p>13     A    It's our use-of-force model.</p> <p>14     Q    Are you able to read the text in there?</p> <p>15     A    Vaguely. Probably from memory, I can</p> <p>16     probably tell you what it says.</p> <p>17     Q    Okay. So it says: "It's important for</p> <p>18     officers to bear in mind" -- strike that. At the</p> <p>19     very bottom here.</p> <p>20     A    Yes.</p> <p>21     Q    It says, "LVMPD policy and levels of</p> <p>22     resistance states, quote, It is important for</p> <p>23     officers to bear in mind that there are many reasons</p> <p>24     a suspect may be resisting arrest or may be</p> <p>25     unresponsive. The person in question may not be</p>	<p>1      A    The moment that I arrived?</p> <p>2      Q    Yes.</p> <p>3      A    It was -- all I knew was obstructing or</p> <p>4      resisting, because Farmer was resisting arrest.</p> <p>5      Q    Okay. Was that a severe crime?</p> <p>6      MR. MCNUTT: Objection. Form.</p> <p>7      THE WITNESS: If it's just a resisting of a</p> <p>8      public officer, it's a misdemeanor. If it's</p> <p>9      resisting a public officer with a weapon, it's a</p> <p>10     felony. It depends on the factors, I suppose.</p> <p>11     BY MR. LAGOMARSINO:</p> <p>12     Q    At the onset of the incident, there's a</p> <p>13     reference here, Number 2, that Farmer was not posing</p> <p>14     a threat to anyone at the onset of the incident. Do</p> <p>15     you agree with that, having reviewed the video?</p> <p>16     A    Yes.</p> <p>17     Q    It says: "During the subsequent ECD cycles,</p> <p>18     Farmer was displaying passive and active resistance."</p> <p>19     Do you agree with that?</p> <p>20     A    Yes.</p> <p>21     Q    It says: "Prior to and during the repeated</p> <p>22     strikes to Farmer's head, Farmer was displaying</p> <p>23     passive and active resistance."</p> <p>24     Do you agree with that?</p> <p>25     A    Yes.</p>
<p>1      capable of understanding the gravity of the</p> <p>2      situation. Officers must consider several factors</p> <p>3      when dealing with a noncompliant subject. Subject</p> <p>4      may be noncompliant due to a medical condition,</p> <p>5      mental, physical or hearing impairment, language</p> <p>6      barrier, drug interaction or emotional crisis and</p> <p>7      have no criminal intent."</p> <p>8      Do you agree with that sentence?</p> <p>9      A    Yes.</p> <p>10     Q    It says: "This may not make the subject any</p> <p>11     less dangerous, but it may require a change in</p> <p>12     tactics that will be more effective while maintaining</p> <p>13     officer safety once these circumstances are known to</p> <p>14     the officer."</p> <p>15     Is officer safety recognized as a reason to</p> <p>16     deprive an individual of their constitutional rights?</p> <p>17     MR. MCNUTT: Objection, form.</p> <p>18     THE WITNESS: No.</p> <p>19     BY MR. LAGOMARSINO:</p> <p>20     Q    Going to 33, Page 33, are you familiar with</p> <p>21     the Graham v. Connor factors?</p> <p>22     A    Yes.</p> <p>23     Q    So there's a discussion here about the</p> <p>24     severity of the crime at issue. In your view, how</p> <p>25     severe was the crime at issue?</p>	<p>1      Q    And then "When Officer Lopera placed Farmer</p> <p>2      in what he called the 'rear naked choke,' Farmer was</p> <p>3      displaying passive and active resistance."</p> <p>4      Do you agree with that?</p> <p>5      A    Which part of it?</p> <p>6      Q    Well, feel free to break it up.</p> <p>7      A    Well, I suppose he did call it a "rear naked</p> <p>8      choke," so I guess I can agree that he called it a</p> <p>9      rear naked choke. And I agree it was passive and</p> <p>10     active resistance.</p> <p>11     Q    Do you believe it was a rear naked choke?</p> <p>12     MR. MCNUTT: Objection. Form.</p> <p>13     THE WITNESS: No.</p> <p>14     BY MR. LAGOMARSINO:</p> <p>15     Q    When an officer is dealing with a dynamic</p> <p>16     situation, what does -- let's start with, what is a</p> <p>17     dynamic situation by definition, or fluid or...</p> <p>18     A    It can be a lot of different things. It</p> <p>19     could be a pursuit, a vehicle pursuit, a foot</p> <p>20     pursuit, a fight, a shooting.</p> <p>21     Q    It's changing events, correct?</p> <p>22     A    Yes.</p> <p>23     Q    So is an officer allowed to -- let's say --</p> <p>24     strike that.</p> <p>25     Let's say a subject or a suspect decides to</p>

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31 (Pages 118 to 121)

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<p>1      surrender. Is the officer allowed to punish that  2      suspect or use force against them once they've  3      surrendered?</p> <p>4      MR. ANDERSON: Objection to form.</p> <p>5      THE WITNESS: No.</p> <p>6      BY MR. LAGOMARSINO:</p> <p>7      Q    Now, the next factor here, it says: Number  8      3, "Whether the subject is actively resisting or  9      attempting to evade the arrest by flight."</p> <p>10     Now, do you agree that Tashii ran for an  11    unknown reason?</p> <p>12     A    Can you be more specif- -- based on the  13    video that I saw?</p> <p>14     Q    Yeah.</p> <p>15     A    That he ran for an unknown reason?</p> <p>16     Certainly. I don't know his reason.</p> <p>17     Q    Based on your review of the video, did  18    Lopera try to grab Tashii?</p> <p>19     A    At the beginning of that video?</p> <p>20     Q    Yeah.</p> <p>21     A    I think so, yeah.</p> <p>22     Q    Okay. What justification would Lopera have  23    had to try to grab him at that point?</p> <p>24     A    Without reviewing the video, I can't  25    remember exactly where they were at the time. If</p>	<p>1      So taking it down to the bottom of Page 34,  2      it says: "LVMPD policy states an officer may  3      initiate a foot pursuit of any individual if the  4      officer reasonably believes he is about to engage in,  5      is engaging in or has engaged in criminal activity.  6      As Officer Lopera began to chase Farmer, he had no  7      reasonable suspicion or probable cause to believe  8      that Farmer was going to engage in or was involved in  9      any criminal conduct."</p> <p>10     Do you agree with that?</p> <p>11     A    No.</p> <p>12     Q    And why do you disagree with that?</p> <p>13     A    Well, a couple reasons. On the video, I  14    believe, Farmer states to officers that he -- someone  15    was chasing him. So he may be a victim of a crime,  16    he may be a suspect in the crime if he's being  17    chased. And I believe he says that he ran across the  18    street, jaywalking, so, yes, he is admitting to a  19    very minor, admittedly, misdemeanor.</p> <p>20     And then I would expect any of my officers  21    to detain someone who flees through the back of the  22    house of a hotel, casino.</p> <p>23     Q    Okay. Did Tashii say he was jaywalking?</p> <p>24     A    If he ran across the street on Las Vegas  25    Boulevard where we have bridges that have been built</p>
<p style="text-align: center;">Page 119</p> <p>1      Lopera believed that Farmer has been, is committing  2      or is about to commit a crime, then he's got  3      reasonable suspicion to detain him.</p> <p>4      Q    Okay. Now, the day of this report, on the  5      first page is 8/1 of '17.</p> <p>6      A    Okay.</p> <p>7      Q    Are you aware of whether the drug test  8      results were back at the time of the incident?</p> <p>9      A    On 8/1?</p> <p>10     Q    Yeah.</p> <p>11     A    I don't know.</p> <p>12     Q    Now, it says on the influence of drugs or  13    alcohol, it just says: "Due to the fact that Officer  14    Lopera did not provide a statement, this cannot be  15    answered."</p> <p>16     I guess I'm supposing if they were back,  17    then, at least, that could be answered, correct?</p> <p>18     A    No. I believe that is based on the fact  19    that without a statement from Lopera, they weren't  20    willing to -- how do I put -- I don't know.</p> <p>21     Q    What I'm trying to assess, what Lopera was  22    thinking, right?</p> <p>23     A    Right.</p> <p>24     Q    And so that's why they were unable to answer  25    that.</p>	<p style="text-align: center;">Page 121</p> <p>1      for millions of dollars, then he jaywalked, because  2      we don't have crosswalks on the ground. So I think  3      that's what they assumed.</p> <p>4      Q    There's some crosswalks over by the  5      Venetian, correct?</p> <p>6      A    There are. I believe he said "I almost got  7      hit by a car," which maybe would lead someone to  8      believe he was jaywalking.</p> <p>9      Q    Going to Page 35. It says: "Officer Lopera  10     told Farmer" -- sorry. Second full paragraph. It  11    said: "Officer Lopera told Farmer to get on his  12    stomach several times but never gave Farmer a  13    reasonable opportunity to comply with commands before  14    cycling the ECD again."</p> <p>15     Do you agree with that?</p> <p>16     A    I'm sorry, I'm trying to find the line --  17    these don't have line numbers.</p> <p>18     Q    I apologize. Right there, the second  19    sentence there. It says: "Officer Lopera told  20    Farmer to get on his stomach several times but never  21    gave Farmer a reasonable opportunity to comply with  22    commands before cycling the ECD again."</p> <p>23     Do you agree with that?</p> <p>24     A    No.</p> <p>25     Q    And why do you disagree with that?</p>

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32 (Pages 122 to 125)

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<p>1        A Like I testified a little bit ago, I've seen  2        multiple subjects comply immediately. And watching  3        that video, I hear the, what is it, "I will," but  4        people who are compliant move much faster. I mean,  5        probably no one in this room has ever been tased, and  6        hope you never are, but if you do, it's motivating to  7        comply for most people.</p> <p>8        Q And then it says: "Officer Lopera's verbal  9        commands also contradicted each other, telling  10      Farmer, quote, Don't move, quote, follow by a command  11      to get on your stomach, quote."</p> <p>12      Do you agree with that?</p> <p>13      A It's possible, yes.</p> <p>14      Q The taser policy for the ECD is recited in  15      the next paragraph. Did Officer Lopera violate that  16      policy?</p> <p>17      A The policy itself is a little bit  18      contradictory because it says at the end there,  19      "shall be deemed ineffective and another force option  20      will be considered," which kind of contradicts the  21      "shall." Because if you're considering another force  22      option, then you could consider to remain with the  23      force option you're using.</p> <p>24      And I maybe touched on it a little bit  25      earlier, when you're alone, if you're getting some</p>	<p>1        THE VIDEOGRAPHER: We are going off the  2        record. The time is approximately 2:19 p.m.  3        (Off the record, after which Ms. Farmer  4        and Ms. Day did not return to the room.)</p> <p>5        THE VIDEOGRAPHER: The time is approximately  6        2:29 p.m. We are back on the record.</p> <p>7        BY MR. LAGOMARSINO:</p> <p>8        Q What's the standard under the Fourth  9        Amendment with respect to how much force a police  10      officer can use when they're making an arrest?</p> <p>11      MR. ANDERSON: Objection. Form.</p> <p>12      THE WITNESS: To overcome resistance,  13      prevent escape and take into custody.</p> <p>14      BY MR. LAGOMARSINO:</p> <p>15      Q Fair to say that you can only use so much  16      force in making an arrest as is objectively  17      reasonable?</p> <p>18      A Correct.</p> <p>19      MR. LAGOMARSINO: Okay. All right. Exhibit  20      5, please.</p> <p>21      (Plaintiff's Exhibit No. 5 was marked  22      for identification.)</p> <p>23      BY MR. LAGOMARSINO:</p> <p>24      Q Exhibit 5 is a printout of the New York  25      Times article about this case, dated May 17, 2017.</p>
<p>1        level of control or compliance from the force option  2        you're using, then it might be reasonable to stick  3        with that one, because you don't necessarily want to  4        give up something that's partially working to move to  5        another force option that might not work at all.</p> <p>6        Q Okay. Next paragraph, it says: "After  7        cycling the ECD seven times, Officer Lopera holstered  8        his ECD. With Farmer lying on his stomach, Officer  9        Lopera straddled Farmer's back and struck him  10      approximately 10 to 12 times in the head while giving  11      Farmer verbal commands to get on your stomach.  12      According to LVMPD policy, officers should only use  13      hand strikes when a subject is displaying aggressive  14      or aggravated aggressive resistance."</p> <p>15      So did Officer Lopera violate the policy on  16      hand strikes?</p> <p>17      MR. MCNUTT: Objection. Form.</p> <p>18      THE WITNESS: Potentially, there -- if you  19      look in the tactical review board transcript, there  20      was quite a bit of back-and-forth over how many  21      strikes were thrown, how many strikes landed, but,  22      yes, potentially.</p> <p>23      MR. LAGOMARSINO: Okay. Let's take a  24      five-minute break.</p> <p>25      MR. MCNUTT: Reading my mind.</p>	<p>1        It talks about a press conference put on by Kevin  2        McMahill. Who's Kevin McMahill?</p> <p>3        A He is the undersheriff of Las Vegas  4        Metropolitan Police Department.</p> <p>5        Q Did you watch that press conference?</p> <p>6        A Parts of it, at least.</p> <p>7        Q Undersheriff McMahill stated that had he  8        survived, Tashii Farmer would have faced no charges.  9        Do you agree with Undersheriff McMahill?</p> <p>10      A I disagree.</p> <p>11      Q On what basis?</p> <p>12      A Due to the fact that Tashii Farmer went  13      through the back of the house of the Venetian,  14      probably, if I had to put my best guess to it, 50 or  15      100 times a year we would detain someone who would be  16      found in the back of the house, generally by  17      security. We're not necessarily patrolling the back  18      of the house.</p> <p>19      Q Right.</p> <p>20      A And that person could definitely face a  21      charge of trespassing at a minimum.</p> <p>22      Q Okay. In order to charge someone with  23      trespassing, don't you have to read them a warning  24      first?</p> <p>25      A That's trespass on land after warning. You</p>

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33 (Pages 126 to 129)

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<p>1 also have trespass signs posted, and you have  2 trespass, like, fenced area, where if the owner of  3 the property is taking reasonable steps to keep  4 people off a certain part of the property, then it's  5 reasonable to believe that the general public  6 shouldn't be on the property.</p> <p>7 Q Okay. So let's say Tashii would have  8 survived and then you would have had a chance to  9 review all the video from the incident, would you  10 have recommended charges?</p> <p>11 A Yes.</p> <p>12 Q For trespassing?</p> <p>13 A Yes.</p> <p>14 Q Is trespassing a severe crime?</p> <p>15 A No.</p> <p>16 Q Tashii was unarmed, correct?</p> <p>17 A Correct.</p> <p>18 Q By the time you got to the scene, Tashii  19 posed no threat to your safety, correct?</p> <p>20 A I wouldn't say no. He did pull his arm away  21 from me, and it was my perception that he was  22 struggling the entire time we were trying to put him  23 in handcuffs. So I wouldn't say zero.</p> <p>24 Q On a scale of 1-to-100 or 0-to-100, what  25 would you say he would -- 100 being the maximum</p>	<p>1 BY MR. LAGOMARSINO:  2 Q Can the LVNR be used to kill somebody?  3 MR. MCNUTT: Objection. Form.  4 THE WITNESS: Not from the way we're  5 trained.</p> <p>6 BY MR. LAGOMARSINO.  7 Q Okay. If it's incorrectly used, can it kill  8 somebody?  9 A I don't know.  10 Q Were you trained that if it was incorrectly  11 applied that it could kill somebody?  12 A Not that I recall.  13 Q If you wanted to, you could have put your  14 hands on Ken and attempted to remove his arms from  15 Tashii's neck; is that correct?  16 MR. MCNUTT: Objection. Form.  17 THE WITNESS: Yes.</p> <p>18 BY MR. LAGOMARSINO:  19 Q Okay. Did you do anything by accident that  20 day?  21 A Yeah. When I got out of my car, I shot off  22 my siren and I accidentally hit the buttons for the  23 radio and the PA on my control, which caused -- when  24 I keyed my microphone, it broadcast whatever was  25 coming over the radio over the PA speakers on the</p>
<p>1 threat?</p> <p>2 A I mean, based on that I knew that Lopera had  3 been in a foot pursuit, struggle with Farmer for at  4 least a minute, maybe closer to two minutes by the  5 time I got there, coupled with him pulling away, I'd  6 put it at 30.</p> <p>7 Q When Tashii was on his back with his hands  8 raised, was he a threat at that point?</p> <p>9 A No.</p> <p>10 Q Now, as a police officer, you're supposed to  11 know the law, correct?</p> <p>12 A Yes.</p> <p>13 MR. MCNUTT: Objection. Form.</p> <p>14 BY MR. LAGOMARSINO:  15 Q And you're supposed to be trained on how not  16 to violate a suspect's constitutional rights,  17 correct?</p> <p>18 A Yes.</p> <p>19 Q Is the LVNR an acceptable means of deadly  20 force?</p> <p>21 MR. ANDERSON: Objection. Form. Will you  22 rephrase that?</p> <p>23 THE WITNESS: No.</p> <p>24 MR. LAGOMARSINO: Sure.</p> <p>25 ///</p>	<p>1 front of the car. It was pretty loud.  2 Q Besides that, did you do anything by  3 accident?  4 A Not that I remember.  5 Q Was everything that you did with respect to  6 Tashii intentional?  7 A Yes.  8 Q When you were assisting Lopera, you were  9 assisting him to help subdue Tashii; is that correct?  10 A I was assisting him to take Tashii into  11 custody.  12 Q And did you criticize Officer Lopera in any  13 way at the scene?  14 A I don't think so.  15 Q Now, Tashii was being held in a neck  16 restraint against his will, correct?  17 MR. ANDERSON: Objection. Form.  18 THE WITNESS: I don't think he was -- I  19 don't think he asked to be put in a neck restraint,  20 no.</p> <p>21 BY MR. LAGOMARSINO:  22 Q He did not consent to it, correct?  23 A I don't think so.  24 Q When you have an individual in custody --  25 sorry.</p>

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**\* \* \* Videotaped Deposition \* \* \***

34 (Pages 130 to 133)

Page 130	Page 132
<p>1        When you have an individual in custody, as  2        an officer, do you have a duty to protect them from  3        harm?</p> <p>4        A   Yes.</p> <p>5        Q   And you have a duty to protect them from  6        harm regardless of whether that harm comes from  7        another officer or a third party, correct?</p> <p>8        A   Correct.</p> <p>9        Q   Did Tashii have a right to be free from  10      cruel punishment?</p> <p>11      A   Yes.</p> <p>12      Q   Did Tashii have a right to be free from  13      inhumane treatment?</p> <p>14      A   Yes.</p> <p>15      Q   When Tashii was in the neck restraint, he  16      was helpless, correct?</p> <p>17      MR. ANDERSON: Objection to form.</p> <p>18      THE WITNESS: No.</p> <p>19      BY MR. LAGOMARSINO:</p> <p>20      Q   How was he not helpless?</p> <p>21      A   At the very minimum, he was still able to  22      pull his arm away from me.</p> <p>23      Q   Besides that, how was he not helpless?</p> <p>24      A   Can you describe "helpless" more, I guess?</p> <p>25      Q   Besides being able to move his arm, Tashii</p>	<p>1        for identification.)</p> <p>2        BY MR. LAGOMARSINO:</p> <p>3        Q   I'm showing you what's been marked as  4        Exhibit 6, the case of United States v. Mendenhall.  5        Have you ever heard of this case?</p> <p>6        A   Maybe.</p> <p>7        Q   Okay. I just want to ask you some questions  8        from the case to see if you agree with the United  9        States Supreme Court in this decision. See the  10      bottom right-hand corner there, some faint numbers?</p> <p>11      A   Yes.</p> <p>12      Q   Will you please turn to Page 5. The bottom  13      under A, it says: "The Fourth Amendment's  14      requirement that searches and seizures be founded  15      upon an objective justification governs all seizures  16      of the person, including seizures that involve only a  17      brief detention short of traditional arrest."</p> <p>18      Do you agree with that?</p> <p>19      A   Yes.</p> <p>20      Q   And going to the top of the next column, it  21      says: "Only when the officer, by means of physical  22      force or show of authority, has in some way  23      restrained the liberty of a citizen may we conclude  24      that a seizure has occurred."</p> <p>25      Do you agree with that?</p>
<p>1        was not independently able to get away from Officer  2        Lopera, correct?</p> <p>3        MR. ANDERSON: Objection. Form.</p> <p>4        THE WITNESS: Well, he was under arrest. He  5        wasn't free to go.</p> <p>6        BY MR. LAGOMARSINO:</p> <p>7        Q   Well, once he was in the neck restraint, he  8        was never able to get out of it until he was let go,  9        correct?</p> <p>10      A   Correct.</p> <p>11      Q   Did you, as a sergeant on the scene, have a  12      duty to protect him from any harm once he was in the  13      choke hold?</p> <p>14      MR. ANDERSON: Objection. Form.</p> <p>15      BY MR. LAGOMARSINO:</p> <p>16      Q   Strike that.</p> <p>17      Did you as a police officer have a duty to  18      protect Tashii from any harm once he was in the neck  19      restraint?</p> <p>20      MR. ANDERSON: Objection. Form.</p> <p>21      THE WITNESS: Duty to protect him once he is  22      in -- if that neck restraint were to be deemed by me  23      to be inappropriate, sure.</p> <p>24      MR. LAGOMARSINO: Okay. Exhibit 6.  25      (Plaintiff's Exhibit No. 6 was marked</p>	<p>1        Page 133</p> <p>1        A   Yes.</p> <p>2        Q   When by means of physical force -- strike  3        that.</p> <p>4        When by means of physical force or show of  5        authority was Tashii Farmer seized?</p> <p>6        MR. ANDERSON: Are you asking based upon the  7        video?</p> <p>8        MR. LAGOMARSINO: Yeah, based on the video.  9        Thanks.</p> <p>10      THE WITNESS: Well, the first show of  11      authority, I suppose, probably would have been when  12      Lopera is still inside the Venetian in the -- the  13      food court says stop or whatever he says to him.</p> <p>14      BY MR. LAGOMARSINO:</p> <p>15      Q   When an officer grabs somebody, is that  16      considered a seizure?</p> <p>17      A   Maybe I'm overthinking this here, but isn't  18      there also -- don't we have to have a sign that the  19      person is complying for then an arrest to take place?</p> <p>20      I'm sorry. Maybe I'm getting too far ahead of you.</p> <p>21      Q   That's okay. Let me rephrase. Can you  22      please turn to Page 6.</p> <p>23      A   Sure.</p> <p>24      Q   See on the top right --</p> <p>25      A   I can't --</p>

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35 (Pages 134 to 137)

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<p>1       Q Sorry. The right-hand column, end of the  2       first paragraph up top where it says: "Plainly, in  3       the latter event, there was no seizure until the  4       police officer in some way demonstrably curtailed  5       Sibron's liberty."</p> <p>6       So with respect to Tashii, there's no  7       seizure until somebody demonstrably curtails their  8       liberty, correct?</p> <p>9       A Okay. Yes.</p> <p>10      Q And for you, you think that starts when --  11       when?</p> <p>12      A Demonstrably curtailed liberty, I would say  13       it's more like the first tasing probably.</p> <p>14      Q Okay. His freedom of movement was  15       restrained at the first tasing, correct?</p> <p>16      A Yes.</p> <p>17      Q Did you use physical force on Tashii?</p> <p>18      A Handcuffing, yes.</p> <p>19      Q And, obviously, Lopera did as well, correct?</p> <p>20      A Yes.</p> <p>21      Q Who else used physical force on Tashii?</p> <p>22      A Officers Tran and Flores assisted with  23       handcuffing.</p> <p>24      Q Okay. You were wearing a badge that night,  25       or were you plain clothes?</p>	<p>1       Q Does he still work for Metro?</p> <p>2       A I think so.</p> <p>3       Q And do you know who Gary Clark is?</p> <p>4       A No. I don't think the other two work for  5       Metro anymore.</p> <p>6       Q Do you know Radmanovich?</p> <p>7       A No.</p> <p>8       Q What's the case where Metro was sued for  9       using a choke hold and other force against Barnard?</p> <p>10      Have you ever been trained about this case?</p> <p>11      A I have heard -- I think I have heard about  12       this case. Was this in, like, a motel?</p> <p>13      Q It looks like they went to Barnard's house,  14       execute an arrest warrant.</p> <p>15      A I think I've heard of it, yes, I think so.</p> <p>16      Q So it's -- go to the bottom of Page 2 on the  17       right. It says: "Clark came over to Charles, who  18       was still laying on top of Theobald, and put Charles  19       in a choke hold. Clark then tried to lift Charles up  20       by his neck. Theobald, however, still had a hold of  21       the handcuff around Charles' right wrist."</p> <p>22      Is it ever appropriate to try to lift  23       somebody up by their neck?</p> <p>24      A If you were in deadly force maybe.</p> <p>25      Q Okay. "Here Officers Theobald and</p>
<p style="text-align: center;">Page 135</p> <p>1       A I had a patch.</p> <p>2       Q Okay. If somebody looked at you, would you  3       expect them to know that you're a police officer?</p> <p>4       A Yes.</p> <p>5       Q Okay. Do you agree that once a neck  6       restraint has been applied to a suspect that there's  7       a need to closely monitor the suspect?</p> <p>8       A Yes.</p> <p>9       Q Prior to this incident -- strike that.</p> <p>10      At the time of the incident, was the LVNR  11       allowed to be used in circumstances where officers or  12       third parties were not at risk of physical injury?</p> <p>13      A It was in a lower level of the use-of-force  14       policy, yes.</p> <p>15      MR. LAGOMARSINO: Exhibit 7.  16       (Plaintiff's Exhibit No. 7 was marked  17       for identification.)</p> <p>18      BY MR. LAGOMARSINO:</p> <p>19      Q I handed you what's been marked as  20       Exhibit 7. It's Barnard v. Theobald, Clark,  21       Radmanovich and Metro. Did you ever hear about this  22       particular case?</p> <p>23      A Maybe. I'm trying to --</p> <p>24      Q Do you know Greg Theobald?</p> <p>25      A I know who he is.</p>	<p style="text-align: center;">Page 137</p> <p>1       Radmanovich ordered the plaintiff to give them,  2       quote, his motherfucking, quote, arms."</p> <p>3       Does Metro train on use of profanity on  4       citizens when you're taking them into custody?</p> <p>5       A Like I testified to earlier, it's  6       discouraged generally. It could be construed as  7       disrespectful, but sometimes strong language is  8       appropriate to potentially prevent use of actual  9       physical force.</p> <p>10      Q Okay. Then going to Page 4, referencing  11       decisions, it says: "We explained that the officers  12       were not entitled to qualified immunity, because  13       construing the evidence in the light most favorable  14       to the plaintiff at the time of the incident at issue  15       here, a reasonable officer would have known it  16       violated clearly established law to use a choke hold  17       on a non-arresting -- non-resisting arrestee who had  18       surrendered, pepper spray him and apply such knee  19       pressure on his back and -- on his neck and back that  20       it would cause a collapse of five vertebrae in his  21       cervical spine."</p> <p>22      Do you agree with that statement?</p> <p>23      A Yeah.</p> <p>24      Q Do you agree that a reasonable officer would  25       know at the time of the incident with -- well, strike</p>

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<p>1       that.</p> <p>2       At the time of the incident with Tashii, did</p> <p>3       you know that it would have violated a clearly</p> <p>4       established law to use a choke hold on a</p> <p>5       non-resisting arrestee?</p> <p>6       MR. ANDERSON: Objection. Form.</p> <p>7       MR. MCNUTT: And incomplete hypothetical.</p> <p>8       THE WITNESS: Can you -- I'm sorry. Can you</p> <p>9       say it one more time?</p> <p>10      BY MR. LAGOMARSINO:</p> <p>11      Q I know you've said that Tashii was resisting</p> <p>12       either passively or actively. I'm just asking if</p> <p>13       you -- of your state of mind as to the state of the</p> <p>14       law at the time, okay, on May 14th of 2017, did you</p> <p>15       know that it would violate clearly established law to</p> <p>16       use a choke hold on a non-resisting arrestee?</p> <p>17      A Yes.</p> <p>18      Q If -- if a citizen is resisting you and</p> <p>19       doesn't stop resisting, are you as an officer still</p> <p>20       allowed to use any amount of force you deem fit?</p> <p>21      MR. ANDERSON: Objection. Form.</p> <p>22      THE WITNESS: I think you're allowed to use</p> <p>23       force to overcome the resist- -- the minimal amount</p> <p>24       of force necessary to overcome resistance.</p> <p>25      ///</p>	<p>1       "Metro's Fiscal Affairs Committee approved a</p> <p>2       \$1 million settlement for James, Dorothy and Michelle</p> <p>3       Boone, relatives of Dustin Boone, a 29-year-old who</p> <p>4       died in November of 2009 after an officer put him in</p> <p>5       a lateral vascular neck restraint. The restraint</p> <p>6       cuts blood flow to the brain."</p> <p>7       Had you ever been trained on this case?</p> <p>8      A No.</p> <p>9      Q Did you ever hear of this case?</p> <p>10     A I don't think so.</p> <p>11     Q Had you ever heard of any cases where --</p> <p>12       strike that.</p> <p>13     I'm not talking about civil cases. Have you</p> <p>14       ever heard of any incidents in your capacity as an</p> <p>15       officer, sergeant at Metro where somebody was</p> <p>16       seriously injured when an LVNR was applied to them</p> <p>17       improperly?</p> <p>18     A No.</p> <p>19     Q Are you aware that many police departments</p> <p>20       around the country have banned the use of the LVNR?</p> <p>21     MR. ANDERSON: Objection. Form.</p> <p>22     THE WITNESS: I think there's a lot of</p> <p>23       police departments that never even employed the LVNR,</p> <p>24       but, yeah, I'm aware that many don't use it.</p> <p>25      ///</p>
<p>1       BY MR. LAGOMARSINO:</p> <p>2       Q Okay. Okay. So, I guess, stated</p> <p>3       differently, just because somebody's resisting you</p> <p>4       without a weapon and doesn't present the threat of</p> <p>5       physical harm to you doesn't mean that you can use</p> <p>6       deadly force, correct?</p> <p>7       A Right. It's the totality of the</p> <p>8       circumstances. You would have to articulate why you</p> <p>9       had to use deadly force.</p> <p>10      Q Are you aware that even when some force is</p> <p>11       justified, the amount actually used can still be</p> <p>12       considered excessive?</p> <p>13      A Yes.</p> <p>14      MR. LAGOMARSINO: All right. Exhibit 8.</p> <p>15      (Plaintiff's Exhibit No. 8 was marked</p> <p>16       for identification.)</p> <p>17      BY MR. LAGOMARSINO:</p> <p>18      Q All right. Exhibit 8 is an article. It</p> <p>19       says: "Metro police pay \$1 million to family of</p> <p>20       choke hold victim," Joe Schoenmann, May 23, 2011.</p> <p>21       Were you aware of this case?</p> <p>22      A Oh, is this not the same one we were just</p> <p>23       going over? No.</p> <p>24      Q It says: "Metro physical officers -- sorry,</p> <p>25       the second paragraph. I'll start over.</p>	<p>1       BY MR. LAGOMARSINO:</p> <p>2       Q Okay. And do you know why?</p> <p>3       A I think for one, to actually use the LVNR, I</p> <p>4       think you have to pay the guy who invented it, like,</p> <p>5       royalties.</p> <p>6       Q Oh, really?</p> <p>7       A So that's probably part of it.</p> <p>8       Q Maybe we should contact him and let him</p> <p>9       know. I'm just joking.</p> <p>10      MR. MCNUTT: You should depose Lindell.</p> <p>11      BY MR. LAGOMARSINO:</p> <p>12      Q Yeah. It says here: "Some of Metro's</p> <p>13       largest settlements have come after the death of</p> <p>14       someone put into the lateral vascular neck restraint,</p> <p>15       a move that Los Angeles Police discontinued after</p> <p>16       several deaths in the 1980s. The estate of Charles</p> <p>17       Bush settled with Metro for \$1.1 million after Bush</p> <p>18       died in 1991."</p> <p>19       Is that the case you're thinking about that</p> <p>20       happened in the motel?</p> <p>21      A Maybe.</p> <p>22      Q Did you ever hear about that case?</p> <p>23      A I thought I heard about one that happened in</p> <p>24       a motel with, like, undercover officers or something,</p> <p>25       but it was -- it had to have been a long time ago, so</p>

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<p>1 it could be that.</p> <p>2 Q And had you heard of the case of the family</p> <p>3 of French citizen Philippe LeMenn who died in the</p> <p>4 Clark County Detention Center in 2001 and settled for</p> <p>5 \$500,00 in 2003?</p> <p>6 A Not specifically, no.</p> <p>7 Q Were you able to tell one way or the other</p> <p>8 whether Officer Lopera placed his forearm over</p> <p>9 Tashii's carotid artery?</p> <p>10 A I remember seeing that Tashii's chin was in</p> <p>11 line with his elbow when I glanced up just</p> <p>12 momentarily, which would mean that it's properly</p> <p>13 placed.</p> <p>14 Q Does the LVNR constrict blood flow?</p> <p>15 A Yes.</p> <p>16 Q Does unconsciousness occur from the LVNR or</p> <p>17 can it?</p> <p>18 A Yes.</p> <p>19 Q Okay. At the time of the incident, when was</p> <p>20 an LVNR allowed to be used?</p> <p>21 A I believe it started in active resistance</p> <p>22 level of the police force policy.</p> <p>23 MR. LAGOMARSINO: Exhibit 9.</p> <p>24 (Plaintiff's Exhibit No. 9 was marked</p> <p>25 for identification.)</p>	<p>1 Q And how were you advised of the statement of</p> <p>2 the complaint?</p> <p>3 A I think they're probably saying -- the</p> <p>4 statement of complaint -- sorry. Just to get into</p> <p>5 the minutia of Metro, statement of complaint</p> <p>6 generally refers to something that IEB is</p> <p>7 investigating. So they're talking about -- or</p> <p>8 alleged policy violation. We're going with or</p> <p>9 alleged policy violation. So this is from the</p> <p>10 tactical review board. It sustained me for the major</p> <p>11 incident, all-hazard plan and body camera, so that's</p> <p>12 what they're talking about. Does that answer your</p> <p>13 question?</p> <p>14 Q Yes. When you were relieved of duty, how</p> <p>15 long were you relieved of duty for?</p> <p>16 A Until, I think, technically November 1st.</p> <p>17 (Plaintiff's Exhibit No. 10 was</p> <p>18 marked for identification.)</p> <p>19 BY MR. LAGOMARSINO:</p> <p>20 Q What is Exhibit 10?</p> <p>21 A It looks like the top got cut off, but it's</p> <p>22 probably a return to duty form.</p> <p>23 Q It looks like you have the fax cover part</p> <p>24 there?</p> <p>25 A Yeah. It looks like it got off, but I think</p>
Page 143	Page 145
<p>1 BY MR. LAGOMARSINO:</p> <p>2 Q What is Exhibit 9?</p> <p>3 A This is my notice relieving me of duty.</p> <p>4 Q How were you given that?</p> <p>5 A I arrived -- well, I was on my way to work</p> <p>6 on whatever date this was, September 27th, and my</p> <p>7 lieutenant at the time texted me and said, "See me in</p> <p>8 my office before briefing."</p> <p>9 I actually got to work a little bit early,</p> <p>10 put on my uniform, walked into his office, and he</p> <p>11 said, "Oh, you got dressed."</p> <p>12 And I said, "Oh, are you relieving me of</p> <p>13 duty?"</p> <p>14 He said, "Yes."</p> <p>15 Q Did he secure your rifle?</p> <p>16 A Yes.</p> <p>17 Q Does this appear to be a true and correct</p> <p>18 copy of the relief-of-duty document?</p> <p>19 A Yes.</p> <p>20 Q It says here in the bottom: "I acknowledge</p> <p>21 that I have been admonished regarding the SOC or</p> <p>22 alleged policy violation that has led to my being</p> <p>23 relieved of duty."</p> <p>24 What's SOC?</p> <p>25 A Statement of complaint.</p>	<p>1 it -- LVMPD 117 is the form number. And from what</p> <p>2 I'm reading, it's a return-to-duty form.</p> <p>3 Q Between the date of the incident with Tashii</p> <p>4 and September 27th, did you still remain a sergeant?</p> <p>5 A Yes.</p> <p>6 Q And when you were placed -- when you were</p> <p>7 relieved of duty between September 27th and, it says</p> <p>8 here --</p> <p>9 A That's when they returned me to duty. I was</p> <p>10 non-confirmed on November 1st.</p> <p>11 Q So between November 1st and September 27th,</p> <p>12 were you relieved of duty with pay or without pay?</p> <p>13 A With pay.</p> <p>14 Q Okay. Did you go out of town at all during</p> <p>15 that time?</p> <p>16 A No.</p> <p>17 Q When you returned to duty, what position</p> <p>18 were you placed in?</p> <p>19 A Police off- -- patrol officer.</p> <p>20 Q 2?</p> <p>21 A Yes.</p> <p>22 Q There's PO1, PO2. Is there a PO3?</p> <p>23 A No.</p> <p>24 Q Next step up is a sergeant, correct?</p> <p>25 A Yes.</p>

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**\* \* \* Videotaped Deposition \* \* \***

39 (Pages 150 to 153)

Page 150	Page 152
<p>1       Q All right. You're subject, as an officer,  2       to discipline if a suspect gets away after you have  3       tried to arrest them?</p> <p>4       A Was the question -- I'm sorry.</p> <p>5       Q Sorry.</p> <p>6       A I think I heard it.</p> <p>7       Q If you're trying to arrest a suspect and he  8       gets away, are you subject to discipline?</p> <p>9       A No. If he was in handcuffs and got away,  10      maybe, because you lost the handcuffs.</p> <p>11      Q Page 2124, 2/12/2008, there's a line 560.</p> <p>12      A Yes.</p> <p>13      Q It says, "Use-of-force issues and  14      documentation, no-show, not attempted." Do you  15      recall why you didn't show up?</p> <p>16      MR. MCNUTT: What line was that?</p> <p>17      MR. LAGOMARSINO: Sorry. 560.</p> <p>18      MR. MCNUTT: 560. Thanks.</p> <p>19      BY MR. LAGOMARSINO:</p> <p>20      Q Do you know why you no-showed that one?</p> <p>21      A I do not recall ten years ago whether I was  22      a no-show. I'm sure that that was required, so  23      there's no way that I would still have been allowed  24      to keep working had it not been done, because there's  25      no way that wasn't a required class.</p>	<p>1       committed policy violations, they sustained me for  2       those policy violations, and then they removed me  3       from my position.</p> <p>4       Q And so --</p> <p>5       A As a result, which should normally be  6       discipline, they contend that it was not discipline.</p> <p>7       Q Why do they contend it's not discipline?</p> <p>8       A My -- my theory?</p> <p>9       Q Yeah.</p> <p>10      A My estimation? Because if you -- if they  11      give me discipline, then I am allowed to grieve and  12      arbitrate that discipline by contract. And if they  13      non-confirm me from my position, then it's their  14      position that I have no standing to flex that  15      position.</p> <p>16      Q I see. You considered it a demotion,  17      correct?</p> <p>18      A Yes, sir.</p> <p>19      Q So you consider it discipline?</p> <p>20      A I do.</p> <p>21      Q Any other time when you've received a  22      written reprimand?</p> <p>23      A No.</p> <p>24      Q Have you ever received a verbal reprimand?</p> <p>25      A I'm sure I have.</p>
<p style="text-align: center;">Page 151</p> <p>1       And I do remember, now that you mention it,  2       so right around the first of each year, POST checks  3       and makes sure you've done all your required  4       training. And I remember right after the first in  5       2009, I got a letter from POST that said that I was  6       deficient in my training. And I knew that I wasn't.  7       And I called my sergeant at the time, and he said,  8       "Yeah, I just got the same letter. It's not  9       correct."</p> <p>10      And there was a bunch of errors. And it  11      got -- it all got worked out. So if that was during  12      2008, it's possible that was a part of it.</p> <p>13      Q All right. Have you ever been disciplined  14      by Metro?</p> <p>15      A In my opinion or Metro's opinion?</p> <p>16      Q Let's go with same thing every lawyer says,  17      both.</p> <p>18      A Okay. Well, in this incident, Metro's  19      opinion is that they did not discipline me. In my  20      opinion, I believe that they did discipline me.  21      Previous to this --</p> <p>22      Q Well, let me stop you there. What do you  23      base that on that Metro said they did not discipline  24      you?</p> <p>25      A They sustained me for -- they alleged that I</p>	<p style="text-align: center;">Page 153</p> <p>1       Q Have you ever been accused by a citizen of  2       excessive force?</p> <p>3       A No.</p> <p>4       Q Did you take any steps to assess the scene  5       between the time you parked and the time you started  6       physical contact with Tashii?</p> <p>7       A No.</p> <p>8       Q I may not have to show you the video, but --  9       so we referenced a video that Metro put out about the  10      LVNR.</p> <p>11      A Yes.</p> <p>12      Q And when is the last time you saw that  13      roughly?</p> <p>14      A A year and a half ago.</p> <p>15      Q Do you remember the video, who put out --  16      who was in the video?</p> <p>17      A Vaguely.</p> <p>18      Q All right. Maybe we should show it, well,  19      on the next break. We're pretty much close to being  20      done. I just have...</p> <p>21      Here it says that officers can only use hand  22      strikes when a suspect is displaying aggressive  23      resistance.</p> <p>24      A I remember reading that, yes.</p> <p>25      Q Did you watch the video of Officer Lopera</p>

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40 (Pages 154 to 157)

Page 154	Page 156
<p>1        striking Farmer?</p> <p>2        A    Yes.</p> <p>3        Q    Did you see Farmer trying to protect his</p> <p>4        face from being hit?</p> <p>5        A    I remember seeing him with his hands up.</p> <p>6        Q    By his face?</p> <p>7        A    Yes.</p> <p>8        Q    When you watched the video, did you see</p> <p>9        Tashii running from Lopera from inside the hotel to</p> <p>10      outside the hotel and to the white truck?</p> <p>11      A    Yes. I mean, there's a period of time where</p> <p>12      you don't see Farmer.</p> <p>13      Q    Right. Did you see Farmer by the white</p> <p>14      truck?</p> <p>15      A    Yes.</p> <p>16      Q    When you watched it, did you believe he was</p> <p>17      trying to highjack or strike -- carjack the truck?</p> <p>18      MR. MCNUTT: Objection.</p> <p>19      MR. ANDERSON: Form.</p> <p>20      THE WITNESS: From my perception?</p> <p>21      BY MR. LAGOMARSINO:</p> <p>22      Q    Right.</p> <p>23      A    I can tell you that when you watch Lopera's</p> <p>24      body camera, I can understand why he thought that</p> <p>25      that was what Farmer was trying to do. And then when</p>	<p>1        most important reason.</p> <p>2        Q    What are the four physiological factors that</p> <p>3        establish control for the LVNR?</p> <p>4        A    Four physiologic- -- are you talking about,</p> <p>5        like, the Valsalva maneuver, carotid restraint --</p> <p>6        Q    Yeah.</p> <p>7        A    -- vascular -- what is it, vascular</p> <p>8        compression, then head placement.</p> <p>9        Q    Carotid compression?</p> <p>10      A    Carotid compression, vagus --</p> <p>11      Q    Yeah.</p> <p>12      A    -- is that what that is?</p> <p>13      Q    Yeah.</p> <p>14      A    And venus compression.</p> <p>15      Q    Okay. When somebody is rendered unconscious</p> <p>16      by the LVNR, when does the subject generally revive?</p> <p>17      A    I think it's within like 30 seconds or</p> <p>18      something, a minute.</p> <p>19      MR. LAGOMARSINO: Let's just take a break.</p> <p>20      We're just going to show him the video, and then we</p> <p>21      don't have a lot of questions.</p> <p>22      THE VIDEOGRAPHER: We are going off the</p> <p>23      record. The time is approximately 3:23 p.m.</p> <p>24      (Off the record.)</p> <p>25      (Playing video.)</p>
<p style="text-align: center;">Page 155</p> <p>1        you take the high-level view from the Venetian</p> <p>2        security camera on the corner, from there, I can tell</p> <p>3        that really Farmer touches that truck as he's looking</p> <p>4        around to decide where he's going to run next or if</p> <p>5        he can run somewhere next. He is trying to make a</p> <p>6        plan.</p> <p>7        Q    Okay.</p> <p>8        A    So I don't know if that could have been part</p> <p>9        of his plan, but I can tell a little better from that</p> <p>10      level that he is trying to make a plan.</p> <p>11      Q    Sure. And -- but based on watching Lopera's</p> <p>12      camera, did you feel, wow, looks like he is trying to</p> <p>13      carjack that vehicle?</p> <p>14      MR. ANDERSON: Objection. Form.</p> <p>15      THE WITNESS: It would raise my suspicions</p> <p>16      if I was the officer in that position, yes, that that</p> <p>17      might be a possibility.</p> <p>18      BY MR. LAGOMARSINO:</p> <p>19      Q    Okay. In viewing all the videos, did you</p> <p>20      ever come to a conclusion that Lopera was acting in</p> <p>21      self-defense?</p> <p>22      A    No, not definitively, no.</p> <p>23      Q    Why is it important to activate your body</p> <p>24      camera?</p> <p>25      A    Because it's policy. Honestly, that's the</p>	<p style="text-align: center;">Page 157</p> <p>1        THE VIDEOGRAPHER: Standby, please. The</p> <p>2        time is approximately 3:32 p.m. We are back on the</p> <p>3        record.</p> <p>4        BY MR. LAGOMARSINO:</p> <p>5        Q    Officer Crumrine, during the break we were</p> <p>6        playing this LVNR restraint video. Didn't --</p> <p>7        admittedly doesn't have any sound really playing.</p> <p>8        Have you seen this before?</p> <p>9        A    Yes.</p> <p>10      Q    Do you know who that is?</p> <p>11      A    That is Mike Bland.</p> <p>12      Q    Okay.</p> <p>13      A    B-L-A-N-D.</p> <p>14      Q    He is the instructing on the LVNR?</p> <p>15      A    Correct.</p> <p>16      Q    Do you know if this video was produced</p> <p>17      before or after the Tashii incident?</p> <p>18      A    I believe it was produced after.</p> <p>19      Q    And how do you know that?</p> <p>20      A    I believe it was produced so that at the</p> <p>21      tactical review board we could demonstrate for the</p> <p>22      citizens on the review board who are not familiar</p> <p>23      with -- or maybe not familiar with the LVNR what that</p> <p>24      looks like.</p> <p>25      MR. LAGOMARSINO: Okay. Then we will just</p>

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41 (Pages 158 to 161)

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<p>1 introduce it as Exhibit 12.  2 (Plaintiff's Exhibit No. 12 was  3 marked for identification.)  4 MR. LAGOMARSINO: I have no further  5 questions.  6 MR. MCNUTT: At all or just on the video?  7 MR. LAGOMARSINO: On the video. But I'll  8 probably have a couple follow-ups when you're done,  9 but just to save some time.  10 MR. MCNUTT: Sure.  11 MR. ANDERSON: Do you want to go, or do you  12 want me to go?  13 MR. MCNUTT: Go ahead.</p> <p style="text-align: center;">EXAMINATION</p> <p>BY MR. ANDERSON:</p> <p>Q Officer Crumrine, when you arrived on the scene, what information did you have about what had occurred prior to arrival?</p> <p>A I had zero information.</p> <p>Q When you arrive on a scene to a dynamic situation that is still active, such as the one you encountered with Mr. Farmer and Officer Lopera, what is your first priority?</p> <p>A First priority is always life safety, which in this instance would be take him into custody.</p>	<p>1 of times at this point -- but if an officer observed  2 another officer using force that's clearly beyond  3 objectively reasonable, egregious, outlandish, an  4 officer must, when safe to do so, intervene to stop  5 that force being used and immediately report that to  6 a supervisor.  7 Q Upon your arrival, did you believe that  8 Officer Lopera was using unconstitutional force?  9 A No.  10 Q Did you have any idea as to why he was even  11 using force?  12 A No.  13 Q As a police officer, are you allowed to  14 assume that an officer has acted pursuant to policy  15 in the constitution prior to your arrival?  16 A Yes.  17 Q And did you do so in this case?  18 A Yes.  19 Q Hypothetically, if you do see someone where  20 you believe intervention is necessary, how can an  21 officer intervene?  22 A You can intervene by -- verbally or with  23 physical actions or both.  24 Q So is giving orders a form of intervention?  25 A Yes.</p>
<p style="text-align: center;">Page 159</p> <p>Q So your first priority upon arriving would be to do what?  A Place Tashii Farmer in handcuffs.  Q When you arrive on a scene such as this, would you ever stop and ask the officer questions or find out why he had ended up on the ground at that point?  A No.  Q When would you ask those questions?  A After the scene was static, safe.  Q Is that pursuant to your training and LVMPD policies?  A Yes.  Q In your opinion, is it a legitimate law enforcement task to effectuate handcuffing before you investigate what happened?  A Yes.  Q Are you trained by the Las Vegas Metropolitan Police Department in the duty to intervene?  A Yes.  Q What does that mean to you, duty to intervene?  A That means -- I'm going to wind up paraphrasing the policy, because I've read it a ton</p>	<p style="text-align: center;">Page 161</p> <p>Q When you arrived in this case, did you give orders to Officer Lopera?  A I did.  Q And what were those orders?  A "Let go. Let him go."  Q And what did you mean by that?  A I wanted him to relax the hold and help roll him over to effectuate handcuffing.  Q And so did you give Officer Lopera orders to reduce the amount of pressure he was applying to Mr. Farmer's neck, if he was applying any?  A Yes.  Q Could you tell from where you were at if any pressure was being applied to Mr. Farmer's neck?  A No.  Q Would you ever be able to tell that during the dynamic situation?  A No.  Q So when you told Officer Lopera to let go, what would you want him to do at that point?  A I would want him to maintain control over the -- help me maintain control over Farmer and roll over as we're all trained to do, roll him over so we can get the handcuffs on.  Q Would Officer Lopera keep his arms in a</p>

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1 CERTIFICATE OF REPORTER

2

3 STATE OF NEVADA )  
4 ) ss:  
5 COUNTY OF CLARK )

6 I, Sarah Safier, CCR No. 808, do hereby  
7 certify: That I reported the deposition of OFFICER  
8 TRAVIS CRUMRINE, commencing on Monday,  
9 December 10, 2018, at 10:09 a.m.

10 That prior to being deposed, the witness was  
11 duly sworn by me to testify to the truth. That I  
12 thereafter transcribed my said shorthand notes into  
13 typewriting and that the typewritten transcript is a  
14 complete, true, and accurate transcription of my said  
15 shorthand notes. That prior to the conclusion of the  
proceedings, pursuant to NRCP 30(e), the reading and  
signing of the transcript was requested by the  
witness or a party.

16 I further certify that I am not a relative  
17 or employee of counsel of any of the parties, nor a  
18 relative or employee of the parties involved in said  
action, nor a person financially interested in the  
action.

19 IN WITNESS WHEREOF, I have set my hand in my  
20 office in the County of Clark, State of Nevada, this  
21 24th day of December, 2018.

22

23

24

25

  
Sarah Safier, CCR No. 808